

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING COUNTY CODE CHAPTER 28 BY THE ADDITION OF A NEW ARTICLE, ARTICLE X, CONSISTING OF NEW SECTIONS 28-124 THROUGH 28-133, ENTITLED “USE OF COUNTY SIDEWALKS AND RIGHTS-OF-WAY FOR DINING PURPOSES IN ISLA VISTA”

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1.

Chapter 28 of the Santa Barbara County Code is hereby amended by the addition of new Article X, entitled “Use of County Sidewalks and Rights-of-Way for Dining Purposes in Isla Vista,” to read as follows:

**Article X. Use of County Sidewalks and Rights-of-Way for Dining Purposes in Isla Vista.**

**28-124 Definition**

As used herein, “Outdoor dining” means the use of a County road or sidewalk easement and/or County road right-of-way for the sale or consumption of food or beverages in conjunction with the operation of a food service establishment properly licensed for such service under applicable law.

**28-125 Annual Encroachment Permit Required**

No food service establishment shall provide outdoor dining service unless an Annual Outdoor Dining Encroachment Permit has been issued to the establishment by the County. The Public Works Director may issue an Annual Outdoor Dining Encroachment Permit pursuant to the Director’s administrative regulations. The owner or operator of a business or service which includes outdoor dining shall maintain and operate such business or service in compliance with all provisions of their Annual Outdoor Dining Encroachment Permit and the administrative regulations.

**28-126 Where Outdoor Dining in County Road Right-of-Way is Permitted**

Outdoor dining shall not be permitted where, in the opinion of the Public Works Director, the speed, volume or nearness of vehicular traffic is not compatible with outdoor dining. All outdoor dining areas must be adjacent to and incidental to the operation of a food service establishment properly licensed for such service. Dining areas separated only by public right-of-way sidewalk remaining clear and dedicated for public use are considered adjacent for this section. Use of the sidewalk or public right-of-way shall be confined to the actual sidewalk and public right-of-way frontage of building housing the restaurant or food service establishment.

**28-127 Sidewalk Required to Accommodate Pedestrian Traffic**

Outdoor dining shall be permitted only where, in the opinion of the Public Works Director, the sidewalk is adequate to accommodate the American’s with Disability Act requirements, wide enough to adequately accommodate the usual pedestrian traffic in the area and the operation of the proposed outdoor dining.

Outdoor dining operations shall maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time, and comply with such conditions of their Annual Outdoor Dining Encroachment Permit as may be imposed by the Public Works Director.

### **28-128 Alcoholic Beverage Regulation**

The service of alcoholic beverages shall be allowed only in compliance with all State and local laws and regulations. The service of alcoholic beverages shall be restricted solely to on-premise consumption by customers within the outdoor dining area. Each of the following standards applies to outdoor dining areas which provide alcoholic beverage service:

1. Any outdoor dining area where alcohol is allowed shall be immediately adjacent to and abutting an indoor restaurant which provides food and beverage service.
2. The outdoor dining area shall be clearly and physically separated from pedestrian traffic.
3. The operator shall post a written notice to customers that the drinking or carrying of an open container of alcohol is prohibited outside the outdoor dining area.
4. The outdoor dining operations shall be duly licensed by the State Department of Alcoholic Beverage Control.

### **28-129 Special Closures**

An Annual Outdoor Dining Encroachment Permit is interruptible or terminable by the Public Works Director at any time. The Public Works Director shall have the authority to prohibit the operation of an outdoor dining area at any time whether for convenience or because of anticipated or actual problems or conflicts in the use of the sidewalk area or right-of-way. Such problems and conflicts may arise from, but are not limited to: scheduled festivals and similar events; parades or marches; repairs to the street or sidewalk; or from demonstrations or emergencies occurring in the area.

To the extent possible, the Encroachment Permit holder shall be given prior written notice of any time period during which the operation of the outdoor dining area will be prohibited by the County.

### **28-130 Issuance of Annual Outdoor Dining Encroachment Permit**

The Public Works Director may adopt administrative regulations applicable to the issuance of an Annual Outdoor Dining Encroachment Permit. Such regulations may, without limitation include the following:

1. A requirement that the applicant provide proof of insurance in the amount of \$1 million naming the County of Santa Barbara as additional insured.
2. A requirement that the applicant meet minimum aesthetic and safety standards for design and seating.
3. Such other conditions as may be necessary to protect public health and safety or to protect public improvements.
4. Any requirement deemed necessary to guarantee that the applicant shall restore the appearance of the sidewalk or right-of-way on termination of use.

5. Setback and clearance standards for all reasonable pedestrian uses of the sidewalk, as well as for unusual or occasional public uses that can be anticipated.
6. Maintenance standards for the outdoor dining area.
7. A requirement that the applicant follow all County directives, including directives from the Sheriff, relative to outdoor dining.

### **28-131 Annual Encroachment Permit Fee**

An Annual Encroachment Permit shall require the payment of an annual fee. Such a fee shall be established by the Board of Supervisors by resolution, and may include a cost escalation factor. Such a fee shall be paid on an annual basis, prior to the issuance of an Annual Outdoor Dining Encroachment Permit.

### **28-132 Term and Renewal**

The maximum term of an Outdoor Dining Encroachment Permit is one year. Thereafter, the Public Works Director may extend the Encroachment Permit for additional periods, each not to exceed one year, following review and approval of the operation. If the Public Works Director considers additional or revised conditions desirable, such new conditions may be imposed upon the extension, including the imposition of a current Outdoor Dining Encroachment Permit renewal fee.

### **28-133 Revocation or Suspension of Permit**

The County of Santa Barbara retains the right to revoke or suspend the permit upon twenty-four hours written notice to the operator for any cause, regardless of conformance with these provisions. Such revocation is at the sole discretion of the Public Works Director. Situations that may merit suspension or revocation include, but are not limited to:

1. Emergencies, parades, necessary construction or maintenance, at the discretion of the Public Works Director.
2. Suspension, revocation, or cancellation of any necessary permit(s).
3. Excessive noise (in excess of 65 decibels [dBA]), trash accumulation, neighborhood complaints, etc.
4. Incorrect or inadequate insurance coverage.
5. Failure to comply with conditions of permit approval.

Within twenty-four hours of receipt of written notice of revocation or suspension, regardless of any appeal of the action, the operation shall cease and the outdoor dining operator shall restore the sidewalk to the condition existing prior to the placement of outdoor dining facilities or to some other condition acceptable to the Public Works Director. Failure to comply shall constitute a violation and be subject to penalty.

### **28-134 Violations of Conditions - Penalty**

If any portion of a privilege authorized by this permit is utilized, the conditions immediately become effective and must be strictly complied with. The violation of any valid condition shall constitute a violation and shall be subject to the same penalties as follows:

- Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this permit, shall be guilty of an infraction and, upon conviction thereof, shall be punishable by (1) a fine not exceeding one hundred dollars for a first violation of conditions; (2) a fine not exceeding two hundred dollars for a second violation of conditions within one year; and (3) revocation of permit for a third violation of conditions within one year.
- Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

The remedies provided for herein shall be cumulative and not exclusive.

SECTION 2.

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED, AND ADOPTED, \_\_\_\_ day of \_\_\_\_\_ 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
JOSEPH CENTENO  
Chair, Board of Directors  
County Redevelopment Agency:

ATTEST:  
MICHAEL F. BROWN  
Clerk of the Board

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W. GEIS  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Deputy County Counsel

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
RAY AROMATORIO  
RISK MANAGEMENT

By: \_\_\_\_\_