

## **ORDINANCE NO. 1734**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA, AMENDING CHAPTER 74 (STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES) OF THE SAN FERNANDO CITY CODE TO ESTABLISH REGULATIONS FOR OUTDOOR DINING ON THE PUBLIC RIGHT OF WAY AND MAKING OTHER RELATED MODIFICATIONS**

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council of the City of San Fernando ("City Council") has the authority to enact and enforce ordinances and regulations for the public peace, morals and welfare of the City of San Fernando ("City") and its residents; and

WHEREAS, the authority to adopt and enforce local ordinances that regulate the public right-of-way is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS, in June 15, 2020, the City Council ratified Executive Order 2020-06-03 allowing for temporary dining area permits within public sidewalks in commercial zones throughout the City; and

WHEREAS, in October 8, 2023, the State Legislature passed Assembly Bill 1217, which allows a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for expanded outdoor dining areas shall reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to accommodate an expanded outdoor dining area; and

WHEREAS, the City seeks to promote outdoor dining to enhance the vibrancy of commercial areas, support local businesses, and provide additional dining options for the community while maintaining public safety and accessibility standards; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.**    Recitals. The above recitals are true and correct and incorporated herein by reference.

**SECTION 2.**    Municipal Code Amendment Findings. The City Council finds and determines that the amendments to Chapter 74 (Streets Sidewalks and Other Public Places) of the San Fernando Municipal Code are consistent with the General Plan, promote economic development, and serve the public health, safety, and welfare by enabling outdoor dining on the public right-of-way while ensuring adequate pedestrian access and compliance with applicable safety regulations.

**SECTION 3.** Sections 74-196 through 74-225 of Chapter 74 (Streets Sidewalks and Other Public Places) of the San Fernando Municipal Code are hereby repealed in their entirety and are superseded and replaced with the following new sections:

***Sec 74-196. – Use of Sidewalk for Outdoor Dining***

(a) *This section establishes regulations for dining in the public right-of-way where such dining is accessory to a restaurant, café, specialty food establishment or other eating establishments, bars, taverns, cocktail lounge, craft breweries/distilleries, tap rooms, tasting rooms or wine bars located on private property. It is the policy of the City that such public right-of-way dining should not unduly restrict or impede customary use of the public right-of-way by the general public, nor should right-of-way areas used for outdoor dining be designed in manner that detracts from the image and appearance of the surrounding area.*

(b) *The service or consumption of alcoholic beverages is prohibited in all outdoor dining areas located within the public right-of-way.*

(c) *No person shall place, construct, install, affix or otherwise maintain barriers, tables, chairs or any other furniture, equipment or personal property upon any public street, sidewalk or other portion of the public right-of-way for the purpose of providing outdoor dining services without first obtaining an encroachment permit pursuant to the procedures of this section.*

(d) *Encroachment permits for outdoor dining shall include the following general terms, conditions and other requirements:*

- (1) *A site plan drawn to scale that delineates the dimensions of the proposed outdoor dining area, furniture arrangement, path of travel, development standards and design standards described below; a colors and materials sheet of the proposed furniture and dimensions, fees, insurances, indemnification of the city from liability (in a form approved by the City Attorney), and any other plans, documents or information as required by the form provided by the Public Works Department.*
- (2) *A building, electrical or mechanical permit may be required depending on the scope of the proposed outdoor dining area.*
- (3) *Prior to occupancy of an outdoor dining area an inspection is required.*
- (4) *An annual inspection of an outdoor dining area shall be required to ensure compliance with the limited use regulations for outdoor dining.*
- (5) *Violations of the outdoor dining area standards may result in enforcement actions up to and including revocation of said permit and termination of use.*

- (6) *A copy of the approved encroachment permits and/or building permit, as applicable for an outdoor dining area shall be kept on premises of the associated establishment at all times.*
  - (7) *Each permit issued shall be personal to the permittee and is not transferable, delegable, or assignable. Any attempted transfer, delegation, or assignment of the permit shall be void. In the event of a transfer of the business of the permittee, the transferee shall obtain a new permit prior to the operation of an outdoor dining area.*
  - (8) *The permittee shall, at its own cost and expense, procure and maintain in force at all times policies of commercial general liability insurance (CGL) in an amount not less than \$1,000,000 per occurrence with the City of San Fernando additional insured; and Worker's Compensation and Employer's Liability in statutory amounts.*
- (e) *Encroachment permits for outdoor dining shall include the following baseline development standards:*
- (1) *Dining areas shall maintain building ingress and egress as defined by the Uniform Building Code and emergency access in accordance with California Fire Code. In addition, an unobstructed path of ingress and egress travel with a minimum 4-foot width that leads occupants directly from exit doors to the public right-of-way.*
  - (2) *All furniture associated with the outdoor dining areas shall not be permanently affixed to the sidewalk or public area in which it is proposed.*
  - (3) *Tables and chairs shall be placed only in the locations shown on the approved site plan.*
  - (4) *Barriers to delineate the outdoor dining area are recommended. The barrier must be moveable and designed as specified below.*
  - (5) *A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right-of-way and shall be maintained at all times. Obstructions include traffic signals or signs, light standards, parking meters, bus stops, trash receptacles, benches, trees, gates that open outward beyond the perimeter of the outdoor dining area, and similar objects.*
    - i. *The clear path shall be a paved sidewalk that is at least 4 feet wide.*
    - ii. *The clear path may meander from side to side to avoid obstructions, but shall maintain a continuous, common surface at least 4 feet in width that provides a direct path of travel past the outdoor dining.*
    - iii. *The clear path shall be measured from the outermost point of the outdoor dining to the curb or to the nearest obstruction within the flow of pedestrian traffic, whichever is shorter.*

- iv. *Recesses in the building façade shall not be used to satisfy the clear path requirement.*
- v. *A minimum emergency service access gap of 4 feet with horizontal and vertical clearance shall be required for every 20 feet of linear street frontage.*

(6) *Outdoor dining shall be designed and operated so that it may be used by people of all abilities by complying with all of the following:*

- i. *The surface of the outdoor dining area shall be level and have a running slope and a cross slope that do not exceed 2 percent (1 unit in 50 units' horizontal).*
- ii. *The outdoor dining area shall not be located on a raised platform or in a sunken area.*
- iii. *At least one wheelchair accessible seating space shall be provided for every 20 seats, or as required by the California Building Code, or the American Disabilities Act, whichever is greater.*
- iv. *When multiple wheelchair accessible seating spaces are provided, they shall be distributed and integrated within the outdoor dining area.*
- v. *Wheelchair accessible seating spaces shall have a minimum unobstructed maneuverability dimension of 30 inches in width by 48 inches in depth.*
- vi. *Access to designated wheelchair seating spaces shall be provided through an accessible path with not less than 36 inches unobstructed width.*
- vii. *The interior of the outdoor dining area shall consist solely of moveable furnishings, including moveable tables, chairs, and umbrellas.*

(f) *Encroachment permits for outdoor dining shall require parking for the outdoor dining portion of an eating establishment under either of the following circumstances:*

- a. *The area of the outdoor dining area is greater than 200 square feet; or*
- b. *The area of an outdoor dining area exceeds 25% of the combined total of the gross floor area of the associated eating establishment and the area of the outdoor dining area.*

(g) *Encroachment permits for outdoor dining shall satisfy the following design-related requirements and standards:*

- a. *A colors and materials sheet shall be included in the site plan application to provide the colors, materials of all furniture, barriers, lighting and landscaping that is to be in the outdoor dining area. Exact dimensions and specifications shall be included.*
- b. *Dining/seating area barriers (fences, gates, ropes, etc.) shall be visually appealing, and help to separate the dining/seating area from the sidewalk.*
- c. *Fabric inserts (natural or synthetic) of any size are not permitted to be used as a part of a barrier.*
- d. *The use of chain-link, cyclone fencing, chicken wire or similar material is prohibited.*

- e. *Materials not specifically manufactured for fencing or pedestrian control are prohibited unless they are expressly allowed elsewhere in these guidelines.*
- f. *Materials such as buckets, food containers, tires, tree stumps, vehicle parts, pallets, etc. are not permitted and shall not be used as components of a barrier.*
- g. *All furniture and fixtures must be of sufficiently sturdy construction as not to blow over with normal winds.*
- h. *Furniture and fixtures must not be secured to trees, lampposts, street signs, hydrants, or any other public street infrastructure by any means, whether during restaurant operating hours or when the restaurant is closed.*
- i. *Outdoor dining furniture shall be made of high-quality, durable materials that provide an attractive design and are appropriate use for outdoor use. Folding chairs, lightweight, plastic, deteriorated, U.V. damages, splintered or similar furniture will not be approved or placed in the outdoor dining area. Sealed or painted metal or wood tables are recommended.*
- j. *Upholstered chairs are permitted. Upholstery is not permitted to be of any fluorescent or other strikingly bright or vivid colors.*
- k. *All materials shall be well maintained without stains, rust, tears, or discoloration. Materials that show signs of significant wear/age be replaced.*
- l. *Awnings or umbrellas may be used in conjunction with outdoor dining, and umbrellas shall not be used as a permanent roof or shelter over the outdoor dining. Umbrellas should not be used during extreme wind.*
- m. *Umbrellas shall be constructed of a canvas-type, durable, and fade and fire-resistant material suitable for outdoor use. No plastic fabrics, plastic or vinyl-laminated fabrics, or any type of rigid materials are permitted. Umbrellas must be free of advertisements or product names.*
- n. *All parts of any umbrella (including the fabric and supporting ribs) must be contained entirely within the outdoor seating area.*
- o. *Umbrellas shall be installed and maintained so as to provide pedestrian clearance by maintaining 7 feet of clearance from the ground to the lowest edge of the umbrella. The 7 foot minimum height includes not only the umbrella frame and panels, but also any decorative borders such as fringes, tassels or other such ornamentation. No part of an umbrella may exceed a height of 9 feet above the surface of the outdoor dining area to avoid an undue visual obstruction of other businesses.*
- p. *A barrier may be in the form of open fencing, railing, landscape planters, rope or chain that must be a minimum of 3 feet, but not taller than 4 feet in height.*
- q. *If a barrier is rope or chain, the rope or chain must have a minimum diameter of one inch. Vertical support posts must be constructed of metal or wood. A stanchion base shall not be domed, and shall not be more than one-half (1/2) of an inch above the surface of the floor.*
- r. *Fabric inserts (natural or synthetic) of any size are not permitted to be used as part of a barrier. The use of chain-link, cyclone fencing, chicken wire or similar material is prohibited. Materials not specifically manufactured for fencing or pedestrian control are prohibited unless they are expressly allowed elsewhere in these guidelines. Materials such as buckets, food containers, tires, tree stumps, vehicle parts, pallets, etc. are not permitted and shall not be used as components of a barrier.*

- s. *No banners or signage shall be displayed on the barrier of an outdoor dining area or within the outdoor dining area other than the name of the establishment that may be placed on umbrellas or on the valance of an awning with an overhang not lower than 84 inches from the finished grade of the ground of the outdoor dining area.*
- t. *Signage within an outdoor dining area is not permitted except with a valid City permit. The only required sign is a "No Smoking" sign, which must comply with the dimensions and standards set by the Public Works Director. No additional signage is allowed solely due to the presence of an outdoor dining area.*
- u. *Portable heaters, if provided, shall be located a minimum of 4 feet away from the exterior face of the building and from any combustible materials, including architectural projections, or in accordance with manufacturer recommendations, whichever is most restrictive.*
- v. *Planters may be made out of wood, ceramics, stone, metal or high quality thick plastic planter boxes.*
- w. *Planters shall contain live plant materials in healthy condition, subject to the approval of the Public Works department. Seasonal, thematic planter displays are encouraged. Stressed, dead, or dying landscape must be promptly replaced but not more than 72 hours. Artificial plants; empty planters; or planters with only bare dirt, mulch, straw, woodchips or similar material are not permitted. No thorny plants may be placed in planters.*
- x. *Planters shall have a self-contained watering reservoir system that prevents any leakage.*
- y. *Illuminated outdoor dining areas shall incorporate lighting which shall be installed to prevent glare onto, or direct illumination of, any public space or property or use.*
- z. *Lighting fixtures may be permanently affixed to the front of the associated eating establishment but shall not protrude into the pedestrian path. Lighting shall be mounted so that all wiring is concealed. Rope or string lights are allowed provided they are installed to the requirements of the Building Code and manufacturer's specifications. Spotlights and illumination for advertising are prohibited.*

*(h) Encroachment permits for outdoor dining shall include the following operational conditions:*

- (1) Outdoor dining shall be operated in a manner that meets all requirements of the Health Department of Los Angeles County and any other applicable regulations.*
- (2) Exclusive of the Downtown District of the SP-5 zone, the hours of operation of outdoor dining areas shall be limited to the hours between 7:00 a.m. and 11:00 p.m., daily.*
- (3) Within the Downtown District of the SP-5 zone, the hours of operation of outdoor dining areas shall be limited to the hours between 7:00 a.m. and 12:00 a.m., daily.*

- (4) *An outdoor dining area may provide either waiter/waitress service or self-service.*
  - (5) *At the end of the business day, establishments shall clean (sweep and mop) the area in and around the outdoor dining area. The outdoor dining area shall be clean and free of litter at all times. Waste receptacles are encouraged.*
  - (6) *Dining equipment (including, but not limited to, tables, chairs, space heaters, barriers) must be stored in an area not visible from the public right-of-way or from any plaza area outside of business hours.*
  - (7) *Live entertainment, television monitors, screens, speakers, dancing, pool tables, billiard tables, adult entertainment uses, and cover charges are prohibited in the outdoor dining area.*
  - (8) *Outdoor dining shall comply with the sound level limits of the associated eating establishment in accordance with Article II (Noise) of Chapter 34 (Environment) of the San Fernando Municipal Code.*
  - (9) *All forms of vaping, smoking and the use of tobacco products in the outdoor dining area shall comply with Chapter 23 (Outdoor Smoking Regulations) of the San Fernando Municipal Code.*
  - (10) *Outdoor cooking is permitted in an outdoor dining area in compliance with Los Angeles County Health Department regulations, the San Fernando Building Code and the City of Los Angeles Fire Code as adopted by reference into the San Fernando Municipal Code.*
- (i) *Subject to the procedural requirements of this subsection (h), below, the Director of Public Works or their designee may immediately deny a permit application, or revoke or suspend a permit, if the Director of Public Works finds that: (1) the provisions of this chapter have not been satisfied or violated; or (2) any necessary health permits has been suspended, revoked, or canceled; or (3) the operation of the outdoor dining constitutes a public nuisance, pursuant to Article V (Nuisances) of Chapter 1 (General Provisions and Penalties) of the San Fernando Municipal Code; or (4) if the operation of the outdoor dining endangers, jeopardizes or otherwise constitute a menace to the public convenience, health, interest, safety, or the general welfare of persons residing or working in the vicinity of the proposed use; or (5) the primary use ceases to operate at the location.*
- (1) *Notice of violation of any standards of operation shall be made verbally or in writing to the permittee by the Director of Public Works or designee, any department or division head or designee, the Police Department or the Los Angeles Fire Department. A verbal notice of violation shall be followed by a written notice to the permittee. A copy of the notice shall be given to the Director of Public Works. The permittee shall immediately cure the violation upon receipt of verbal or written notice. If the violation is not cured immediately, the Director of Public Works or designee may revoke or suspend the permit.*

- (2) *Notice of violation of the outdoor dining development or design standards shall be made in writing to the permittee by the Director of Public Works or designee, any department or division head or designee, the Police Department, or the Los Angeles Fire Department. A copy of the notice shall be given to the Director of Public Works. The permittee shall have 10 days to cure the violation. If the violation is not cured within 10 days after the issuance of the notice to the permittee, the Director may revoke or suspend the permit.*
- (3) *The Director of Public Works or designee may immediately deny a permit application, or revoke or suspend a permit, for any single violation of this chapter, and shall immediately revoke the permit of any permittee who has committed three violations of this chapter within a twelve-month period. Any permittee whose permit application has been denied, or whose permit has been revoked or suspended, may request in writing a hearing before the Director of Public Works. The Director of Public Works shall grant the request and hold an informal hearing, where the basis for the denial, revocation or suspension shall be explained to the permittee. The permit applicant or permittee shall have the opportunity at the hearing to present evidence of compliance with the provisions of this code. If, after the hearing, the Director of Public Works lets stand their decision to deny the permit application, or revoke or suspend the permit, the permit applicant or permittee may appeal the decision of the Director of Public Works to the City Manager, or designee, whose action shall be deemed final.*

(j) *Upon permit expiration or termination (for any reason), the permittee shall promptly and diligently remove, at its own expense, all personal property, furnishings, and equipment from the public right-of-way. All outdoor dining barriers shall be removed and the sidewalk shall be returned to its original condition. Any personal property remaining within the road right-of-way or parking area shall be removed pursuant to the laws of the State of California.*

(k) *A violation of this chapter is subject to the administrative citation provisions of Article III (Administrative Penalties – Citations) of Chapter 1 (General Provisions and Penalties) of the San Fernando Municipal Code.*

***Sec. 74-197. Temporary use of sidewalk or roadway.***

*Except as otherwise prescribed in the case of outdoor dining in the public right-of-way under Section 74.196 of this chapter, above, the city council or administrative officer or the administrative officer's designee is authorized to grant temporary use of any sidewalk or roadway for any purpose at such locations and under such conditions as it deems appropriate.*

***Sec. 74-198. Permit terms.***

*Any permit granted by the city council for any encroachment under any of the sections of this division may be upon such terms and conditions as the council may fix and determine. The violation of any such terms or conditions shall be grounds for immediate revocation of such permit.*



***Sec. 74-199. Painting or marking sidewalk.***

*It shall be unlawful for any person to write, paint, mark, deface, or draw upon any sidewalk or roadway without first having obtained a permit from the city council.*

***Sec. 74-200. Obstruction of public way declared nuisance.***

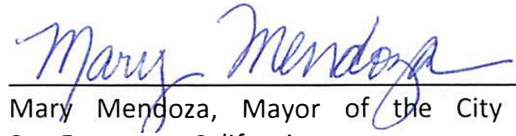
*Anything placed or permitted to remain upon any sidewalk or roadway, in violation of this division, is declared to be a public nuisance. In addition to other remedies provided by law, the city engineer is authorized and empowered to abate the nuisance by removing such obstruction.*

**SECTION 4.** CEQA Compliance. The actions proposed herein are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15301, 15303, 15304, and 15311. Section 15301 exempts from review minor alterations to existing public facilities, Section 15303 exempts from review the new construction of small structures, Section 15304 exempts from review minor alterations to land such as minor temporary uses of land having negligible or no permanent effects on the environment, and Section 15311 exempts from review placement of minor structures accessory to existing commercial facilities. The actions proposed herein would fall under each of these exemptions, as the actions proposed herein are minor alterations to roadways, are temporary, and are accessory to commercial uses. If this program becomes permanent, additional environmental review as appropriate will be considered. There are no features that distinguish this project from others in the exempt classes, and therefore there are no unusual circumstances that would cause these actions to fall outside of the exemptions.

**SECTION 5.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6.** Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of San Fernando this 19<sup>th</sup> day of May, 2025.

  
Mary Mendoza, Mayor of the City of  
San Fernando, California

**ATTEST:**

  
Julia Fritz, City Clerk

**APPROVED AS TO FORM:**

  
Richard A. Padilla, City Attorney

CERTIFICATION

I, City Clerk of the City of San Fernando, California, do hereby certify that the foregoing is a full, true, and correct copy of Ordinance No. 1734 which was introduced on May 5, 2025, and adopted by the City Council of the City of San Fernando, California at a regular meeting thereof held on the 19<sup>th</sup> day of May, 2025, by the following vote of the City Council:

**AYES:** Lopez, Garcia, Fajardo, Solorio, Mendoza - 5

**NAYS:** None

**ABSENT:** None

**ABSTAINED:** None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Fernando, California, this 22<sup>nd</sup> day of May, 2025.

  
Julia Fritz, City Clerk