



## Policy for Placement of Street Furniture Objects in the Public Right of Way January 2013

<b><u>Background &amp; Intent:</u></b>	<p>Street furniture objects and sidewalk cafés can be positive amenities that add vibrancy, character, and visual interest to the streetscape. Gilroy’s Zoning Ordinance contains regulations in Section 44 that define and regulate placement of street furniture objects in the public right of way. The intent of this policy is to provide review criteria applicable to businesses seeking to place street furniture and associated appurtenances in the public right of way. The general intent of these provisions is to:</p> <ol style="list-style-type: none"> <li>1) Encourage sidewalk cafés and street furniture objects as visual amenities which in turn intensify pedestrian activity and make the street life more attractive;</li> <li>2) Maintain the public right of way in a safe, attractive, clean, and accessible manner;</li> <li>3) Preserve and enhance the character of the City of Gilroy;</li> <li>4) Ensure adequate space for pedestrians on the sidewalk adjacent to street furniture objects and sidewalk cafés.</li> </ol>
<b><u>Street Furniture Objects Defined</u></b>	<p>In accordance with Section 44 of the Zoning Ordinance, street furniture objects shall mean any objects which are placed in the public right of way, other than a portable sign or street merchandising regulated under Sections 37.90 and 43 of the Zoning Ordinance, respectively. This policy applies to tables, chairs, benches, umbrellas, trash cans, and other items incidental to a business’ operation, subject to review and approval by the Community Development and Public Works Directors. This policy does not apply to newspaper racks, which are regulated in Section 44 of the Zoning Ordinance. This policy does not apply to food carts, food stands, or other temporary vending facilities which are governed by the Temporary Uses Policy, nor does it apply to peddlers, solicitors, vendors, and other transient businesses which are governed by Chapter 16A of the Gilroy Municipal Code.</p>
<b><u>Continuing Encroachment Permit Required:</u></b>	<p>Businesses wishing to place street furniture objects in the public right of way shall first be required to apply for and obtain a Continuing Encroachment Permit from the Public Works Department.</p>
<b><u>Submittal Materials:</u></b>	<p>Application materials shall be provided in accordance with Section 20.75 of the Gilroy Municipal Code, with the following exceptions or additional specifications:</p> <ol style="list-style-type: none"> <li>1) 20.75(a)(7), 20.75(a)(8), &amp; 20.75(c): These items are not required unless specifically requested by the Public Works Department.</li> <li>2) 20.75(a)(2): Contractor information is only required if fencing or other improvements necessitate a contractor’s work.</li> <li>3) 20.75(a)(3), 20.75(a)(4), 20.75(a)(6):             <ol style="list-style-type: none"> <li>a. A partial site plan, drawn to scale and including the following dimensions shall be provided:</li> </ol> </li> </ol>

<p><b><u>Submittal Materials:</u></b> (continued)</p>	<ul style="list-style-type: none"> <li>i. Length of tenant space frontage</li> <li>ii. Width of sidewalk between building &amp; curb</li> <li>iii. Location of nearby fire hydrants, utilities, sign poles, street trees, light poles, newspaper racks, parking meters, bicycle racks, trash/recycle receptacles and any other obstructions in the public right-of-way with dimensions to curb and building face</li> <li>iv. Location and dimension of area to be occupied by proposed street furniture objects</li> <li>v. Location and orientation of parking spaces adjacent to the street furniture objects</li> </ul> <ul style="list-style-type: none"> <li>b. The application and plans shall describe the size, location, materials, and any other necessary information to fully identify the proposed configuration and temporary improvements in the public right of way. Sufficient details shall be provided for any fencing or other barriers separating the dining area from the sidewalk or street to establish that the removal of such barriers will not result in tripping hazards.</li> <li>c. The application shall include a statement of purpose describing in detail how the use will be conducted, hours of operation of the primary business, and proposed hours that the street furniture objects will be used.</li> </ul> <ul style="list-style-type: none"> <li>4) Provide photographs of the frontage clearly showing all existing conditions along the project frontage.</li> <li>5) Applications require the signature of both the business owner and the property owner.</li> <li>6) Applications will not be accepted without a signed City indemnification form (see Attachment 1).</li> <li>7) Applications will not be approved until adequate evidence of insurance is provided to the satisfaction of the City’s Risk Manager (See Attachment 2). (Note that applications can be submitted, but not approved, without providing proof of meeting the insurance requirements.)</li> </ul>
<p><b><u>Review Criteria:</u></b> Eligible Businesses</p>	<p>Most businesses are eligible to place street furniture objects in the public right of way in accordance with the provisions of this policy, as long as they have a permanent location that meets the “Location of Street Furniture and Business Adjacency” criteria below. Street furniture objects shall only be used as an extension of the permanent business and must meet all other criteria contained in this policy. As a means to further the intent of this policy, drinking establishments and dance venues have limitations on their ability to place street furniture objects in the public right of way. In order to be eligible to place street furniture in the public right of way, a business serving alcoholic beverages must only do so in conjunction with meals. Businesses that function solely as drinking establishments, where the sole purpose of the business is the service of alcohol, are not permitted to place street furniture objects in the public right of way. No business that meets the definition of a Large Dance Venue as described in the Zoning Ordinance will be allowed street furniture objects, regardless of whether the business has obtained a Downtown Special Use Permit for the Large Dance Venue and regardless of whether it meets all other criteria noted above related to food and beverage services. Any determination as to whether a business is eligible for a Continuing Encroachment Permit for placement of street furniture</p>

	<p>objects in the public right of way is subject to the discretion of the Directors of Community Development and Public Works.</p>
<p><b>Review Criteria:</b> Location of Street Furniture and Business Adjacency</p>	<p>Except as explicitly noted elsewhere, a Continuing Encroachment Permit may only allow street furniture objects to be placed in front of the eligible business in the sidewalk area delineated by extending straight lines out from the eligible business's tenant space to the curb. The occupied space of the eligible use shall be located immediately adjacent to the sidewalk area. When the eligible business is set back from the sidewalk or in any other manner not located immediately adjacent to the sidewalk area, the Directors of Public Works and Community Development (or their designees) shall review the eligible businesses' proximity to the proposed placement of street furniture objects. The business' proximity will be one determining factor in whether placement of street furniture objects will be allowed. In most instances, patrons or staff should not be required to cross vehicular driveways or parking areas to travel between the business and its associated street furniture objects.</p> <p>A business operator may propose to extend their placement of street furniture objects in front of an adjacent business or building if it can be found that the proposed use will not:</p> <ol style="list-style-type: none"> <li>1. Interfere with ingress/egress for the adjacent building,</li> <li>2. Block the visibility of display windows, or</li> <li>3. Block signage of an adjacent business.</li> </ol> <p>Where street furniture objects encroach into the frontage of an adjacent business or building, the business operator shall get written approval of the affected adjacent property owner and business. If approval of the adjacent property owner and business is not obtained and submitted with the application, the Community Development Department will conduct a public meeting to allow public comment on and to review and consider the Continuous Encroachment Permit for the street furniture objects. Notices of the public meeting shall be given to any affected businesses or other tenants immediately adjacent to where the street furniture objects are proposed, and notices shall be mailed to all property owners on the same street and within 100 feet of the business proposing the street furniture objects. In special circumstances, such as street furniture proposed by properties at the intersection of two streets, the Planning Manager may require mailed notices to more properties. All comments on the application must be received at or prior to the public meeting to be considered in the review and decision. At the meeting, the Directors of Public Works and Community Development will render a decision on the application, and that decision is final. The applicant requesting placement of street furniture objects in front of an adjacent property shall be responsible for payment of fees to cover the City's costs in the review and processing of the application, and these costs will be above and beyond the costs of a Continuing Encroachment Permit that does not require a public meeting.</p>
<p><b>Review Criteria:</b> Separations and Sight Lines</p>	<p><i>Separations.</i> The City shall review the plans to determine that the following separations are clearly depicted on the plans.</p> <ol style="list-style-type: none"> <li>1. A minimum horizontal clear path of four (4) feet shall be maintained across the</li> </ol>

<p><b>Review Criteria:</b> Separations and Sight Lines (continued)</p>	<p>entire frontage to allow for pedestrian travel along the sidewalk. At no point shall obstructions limit the pedestrian path of travel to less than four (4) feet.</p> <ol style="list-style-type: none"> <li>2. In accordance with City Standard WA-9, a minimum clear distance of three (3) feet must be maintained in all directions from the center of a fire hydrant.</li> <li>3. Objects shall not be placed over utility boxes, unless expressly otherwise allowed by the Public Works Director and when accompanied by a condition requiring immediate removal of such objects in the event access to such utility boxes is required.</li> <li>4. Umbrellas may encroach up to two feet into the required horizontal clear path, provided that the lowest point of the umbrella projection into the required four-foot horizontal clear path is at least seven feet in height.</li> <li>5. For properties located in the Downtown Zoning Districts where diagonal street parking is located, street furniture objects shall not be located within two feet of the face of curb of a parking stall, as this area is used for vehicular overhang. Exceptions for this separation are allowed where adjacent parking stalls are being used for an eligible business' tables and chairs in conformance with other provisions of this policy.</li> <li>6. Where street furniture objects are proposed adjacent to any type of street parking, the Director of Public Works shall review the application and identify the separations necessary to ensure safe ingress/egress for vehicles, ingress/egress of people to/from vehicles, and safety of users of street furniture objects.</li> </ol> <p><i>Sight Lines.</i> A street furniture object shall not be placed where it will create a vehicular hazard by obstructing sight lines necessary for safe operation of vehicles in the public right of way.</p>
<p><b>Review Criteria:</b> Materials</p>	<p>Street furniture objects shall not be made of plastic.</p>
<p><b>Review Criteria:</b> Portable Heaters</p>	<p>Standing portable propane heaters may be permitted, subject to review and approval by the Fire Department.</p>
<p><b>Review Criteria:</b> Pilot Program for Food or Beverage Business Use of Public Parking Areas</p>	<p>To qualify for the pilot program for use of public parking areas, businesses must serve food or non-alcoholic beverages. A business serving alcoholic beverages must only do so in conjunction with meals and must comply will all California Department of Alcoholic Beverage Control permits and conditions, including but not limited to any fencing requirements for service of alcohol in the right of way. Businesses that function solely as drinking establishments, where the sole purpose of the business is the service of alcohol, do not qualify for the use of public parking areas. No business that meets the definition of a Large Dance Venue as described in the Zoning Ordinance will be allowed to use public parking areas under this section of the policy, regardless of whether the business has obtained a Downtown Special Use Permit for the Large Dance Venue and regardless of whether it meets all other criteria noted above related to food and beverage services. Any determination as to whether a business is eligible for a Continuing Encroachment Permit under this section of the policy is subject to the discretion of the Directors of Community Development and Public</p>

**Review  
Criteria:**  
Pilot Program  
for Food or  
Beverage  
Business Use  
of Public  
Parking Areas  
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Works.

A qualifying business may use up to a maximum of two parking spaces for the purposes of outdoor seating, in conformance with all other provisions in this policy, including but not limited to issuance of a Continuing Encroachment Permit, revocation of privilege at any time and for any reason, all conditions of approval, and insurance requirements. The granting of a Continuous Encroachment Permit for use of the parking area by a qualified business does not grant any party any estate, deed, easement, or other property right in the parking area. Additional criteria follow:

- 1) *Time Conditions.* As is the case with other street furniture objects, for any time and for any reason, the City reserves the right to revoke a business' privilege to use public parking spaces for outdoor dining. The initial term for the pilot program shall be three years from the Council's adoption of this Policy. After three years, the Council will review the success of the pilot program and determine whether the pilot program should be discontinued, amended, extended, or made a permanent part of the subject Policy.
- 2) *Plans.* All plan information requested in the Submittal Materials section of this policy shall also be provided for the parking area proposed for use. Fully dimensioned plans shall indicate the location of all parking stalls, tenant space frontage, improvements in the right of way, etc.
- 3) *Location.* The pilot program allowing use of parking spaces for outdoor dining is only available for businesses located in the Downtown Zoning Districts. Such uses are encouraged in the Downtown Historic District, and all applications, particularly those outside the Downtown Historic District, will be reviewed and considered on a case-by-case basis. The location of parking spaces used for dining shall be located immediately adjacent to the eligible sidewalk area identified in the *Location of Street Furniture and Business Adjacency* section noted above, unless otherwise allowed herein. Where one-half or more of the width of a parking space, where said space abuts the curb, is located between the extended property lines or tenant space lines of a business, an application for allocation of that parking space may be made by the owner or tenant of such use without agreement by an adjacent business and property owner and without a public hearing process. Where less than one half of the width of a parking space, where said space abuts the curb, is located between the extended property lines or tenant space lines of a business, an application for allocation of that parking space may be made by the owner or tenant of such use, but shall require the written agreement of the neighboring property owner and business, at no compensation. In the future, should a qualifying business request to use a previously allocated parking space, the extended property line or tenant space line will become the dividing mechanism between the two allocated uses, and 15 days notice shall be given to vacate any previous conditional allocation that is outside a use's property line or tenant space extensions. If a neighboring property owner does not agree to use of a parking space in front of the extension of their property lines, the Directors of Public Works and Community Development still maintain discretion to allow

**Review  
Criteria:**  
Pilot Program  
for Café Use of  
Public Parking  
Areas  
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another adjacent business to use the parking space. In such an instance, the Directors shall consider the following factors:

- a. Horizontal distance where the parking space falls in front of the applicant's business versus the distance where the parking space falls in front of another property or business,
- b. Potential to impede another qualifying businesses use of parking space(s) for outdoor dining, and
- c. Any other factors that may be relevant to the private use of the parking area for outdoor dining.

- 4) Prior to making a determination to allow a business to use a parking space that is (measured at the curb and using the extension of property or tenant space lines) located more than one half in front of a neighboring property that has not agreed to the use, the Directors of Public Works and Community Development shall follow the public meeting procedures set forth in the *Location of Street Furniture and Business Adjacency* section above. An applicant will be responsible for payment of fees to cover the City's costs in the review and processing of the application, and these costs will be above and beyond the costs of a Continuing Encroachment Permit that does not require a public hearing.
- 5) The Director of Public Works may, at the Director's sole discretion, allow areas adjacent to parking to be used for outdoor dining in conjunction with the parking areas if use of the area does not impede vehicular or pedestrian travel. Use of areas that are not designated parking spaces do not require agreements from any other property owners or businesses.
- 6) *Separation of Dining Area from Parking/Traffic Areas.* For any parking space designated for private seating use in conjunction with this section, the business owner shall place planter boxes or wrought iron fencing around the dining area to visually define and secure the area.
  - a. All improvements must be removable.
  - b. Planters must be constructed of sturdy, durable, and attractive materials, consistent with the intent of this policy to enhance the aesthetics of Downtown.
  - c. The City may require that planter boxes or fencing be setback from adjacent parking stalls or other uses to provide space for pedestrian circulation, vehicle door swings, or any other uses.
  - d. Design and placement of planter boxes and fencing is subject to the discretion of the Directors of Public Works and Community Development, or their designees.
- 7) *Hours of Operation.* Businesses requesting use of parking spaces for outdoor seating must be open at least five days per week. Tables and chairs must be available for use for at least eight (8) hours each day they are open, weather permitting.
- 8) *Disabled Access.* Businesses shall be responsible for conforming to applicable disability standards at all times.

<p><b><u>Review Criteria:</u></b> Pilot Program for Café Use of Public Parking Areas (continued)</p>	<p>9) <i>Movement of Improvements.</i> If a proposed business requires that any improvements be made, including without limitation relocation of accessible parking spaces or wheelchair ramps, the costs of said improvements shall be paid for by the applicant. At the Director of Public Works discretion and prior to approval of a Continuing Encroachment Permit, the Director of Public Works shall identify all necessary improvements, who would need to complete them, the standards to which they must be completed, and (if the City is to complete the improvement) the associated costs. Any required payments must be made in advance of the issuance of the Continuing Encroachment Permit.</p>
<p><b><u>Review Criteria:</u></b> Service of Alcohol</p>	<p>Certain types of alcohol service are expressly prohibited by this policy. See the “Review Criteria: Eligible Businesses” section above.</p> <p>Businesses qualifying for placement of street furniture objects in the right of way that propose service of alcoholic beverages should first review the California Department of Alcoholic Beverage Control (ABC) requirements pertaining to alcohol service outdoors/in the public right of way. ABC requirements may impact an applicant’s proposed design, as ABC typically at minimum requires that specific fencing criteria be met.</p>
<p><b><u>Review Criteria:</u></b> Consideration of Approval</p>	<p>Permittees shall not be required to provide any additional parking for tables, chairs, benches, and other street furniture objects authorized under this Policy.</p> <p>Along with the other criteria outlined in the Review Criteria and Conditions of Approval sections of this Policy, the Director of Public Works shall consider the following factors in the review of the Continuing Encroachment Permit application for street furniture objects:</p> <ul style="list-style-type: none"> <li>A. The convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants of offices, stores, shops or dwellings in the vicinity of the premises; and</li> <li>B. The dimensions of the sidewalks affected by the application for street furniture objects; and</li> <li>C. The location of nearby fire hydrants, utility poles, sign poles, trash/recycle receptacles, parking meters, street trees, overhead obstructions, and other structures within the public right-of-way; and</li> <li>D. Other factors that may be relevant to the safety, efficacy or efficiency of allowing the placement of street furniture objects at a particular location.</li> </ul>
<p><b><u>Conditions of Approval:</u></b></p>	<p>The street furniture objects’ premises must be maintained and operated entirely within the conditions outlined below.</p> <p>In the City’s General Conditions of Continuing Encroachment Permit approval, all applicable conditions shall be incorporated into the Continuing Encroachment</p>

**Conditions of Approval:**  
(continued)

Permit, subject to the discretion of the Director of Public Works. (In reference to the standard conditions of approval in effect in January of 2013, the following condition numbers shall be incorporated into approvals for street furniture objects, subject to the discretion of the Director of Public Works: 1, 2, 6, 8, 9, 10, 11, 12, 15, 17, 18, 22, 23, 24, 27, 29 [insurance requirements], 30 [indemnification], and 33.)

The issuance of a Continuing Encroachment Permit for placement of street furniture objects in the public right of way, and the operation of any business associated with the street furniture objects, shall be subject to all of the following additional conditions and restrictions, together with such other conditions as may be deemed necessary by the Director of Public Works and/or the Director of Community Development, in order to secure the general purposes of this policy. The Director of Public Works may, in issuing a Continuing Encroachment Permit for placement of street furniture objects in the right of way, increase the restrictiveness of any or all of the following conditions and restrictions. The permittee, and/or anyone operating a business with street furniture shall comply or cause the compliance with all of the following special conditions and restrictions, in addition to the standard Continuing Encroachment Permit conditions:

- 1) A Continuing Encroachment Permit for a placement of street furniture objects in the right of way under this policy grants nothing more than a license to use the public right of way, which license is revocable at will and may be revoked by the City, for or without any cause whatsoever, at any time. A Continuing Encroachment Permit for a placement of street furniture objects in the right of way does not grant any party any estate, deed, easement, or other property right in the public right of way. The ability to occupy the public right of way under a Continuing Encroachment Permit is a privilege, and the Continuing Encroachment Permit for the street furniture objects is non-transferable and non-assignable.
  - a. While no property rights are conveyed as part of the Continuing Encroachment Permit, the business owner will maintain the right to reserve a seating area for customers of the business that has placed the street furniture objects in the right of way.
  - b. The Gilroy Police Department maintains authority to remove individuals from a street furniture objects if those individuals are creating a public or private nuisance, if the business owner has requested that an individual vacate the business' street furniture object area, or if an individual is not abiding by the provisions of this Policy or any other provisions of local, state, or federal law.
  - c. Applicants granted the privilege of using public parking spaces acknowledge that a future application for use of public parking by an adjacent business may require that some or all of the space allotted with this permit be relinquished.
- 2) Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Continuing Encroachment Permit plan set. The portion of the public right of way not explicitly permitted to be occupied by umbrellas, tables, chairs, and other portable appurtenances on the approved plans shall be kept free of obstructions at all times.



**Conditions of  
Approval:**  
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- 3) Equipment for the service of customers, including but not limited to trays or carts, eating or drinking utensils, linens, and cooking appliances shall not be placed or maintained on any portion of the public right of way unless they are adequately separated from pedestrian traffic.
- 4) All appurtenances, including fencing or other barriers, shall be removable, and when removed, shall not create any tripping hazards. Sufficient attachment and removal details shall be provided to establish this.
- 5) Any and all appurtenances shall be removed immediately upon request by the City. When removed, the public right of way shall be maintained by the business or building owner in a condition where no tripping hazard exists. Upon request by the City and without limitation, appurtenances shall be entirely removed for sidewalk cleaning.
- 6) Unless specifically exempted by the Director of Public Works, all umbrellas, tables, chairs and other portable appurtenances shall be removed from the area whenever the primary business is not open for operation or at a more restrictive hour specified in the Encroachment Permit. If an exemption is granted by the Director of Public Works to allow street furniture objects to remain in the public right of way when the business is not open, such furniture cannot be left outside, unused, for more than three consecutive days.
- 7) Any street furniture objects, including but not limited to tables, chairs, fencing, or other appurtenances, that are abandoned or that are not removed within 15 days of notification by the City shall be conveyed to City ownership.
- 8) Tables and chairs shall not be stacked outside at any time.
- 9) All trash and debris generated by the use of the street furniture objects shall be properly disposed of in the trash container(s) owned or paid for by the building or business owner. The premises shall be maintained in a clean and sanitary condition at all times, and any food, beverage, oil, or other stains in the public right of way shall be immediately cleaned by the business owner who has placed the street furniture objects in the right of way.
- 10) Damage to the public right of way or the street furniture objects shall be repaired immediately, with the full cost burden falling on the business owner and property owner. Any work requiring a contractor shall be performed under a separate Encroachment Permit.
- 11) The area approved for placement of street furniture objects shall not operate in a "standing only" manner in any way or in any portion of the area.
- 12) The hours of operation of an area approved for placement of street furniture objects shall be limited, at a maximum, to the hours of operation of the associated public eating establishment, café, coffee shop, or other qualifying primary business. Business serving alcoholic beverages must only do so in conjunction with meals and in accordance with all provisions of their California Department of Alcoholic Beverages Control License. Businesses that function solely as drinking establishments, where the sole purpose of the business is the service of alcohol, are not permitted to place street furniture objects in the right of way. Thus, for food and beverage service businesses, individuals within a café in the public right of way may not consume alcohol in the absence of meal

**Conditions of  
Approval:**  
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- service to the specific individuals in the public right of way café area. In addition, regardless of the hours of operation of the primary business, street furniture objects shall not be open to patrons between the hours of 10:00 p.m. and 6:00 a.m. Sunday night through Thursday night (Monday morning through Friday morning), nor shall it be open to patrons between the hours of midnight and 6:00 a.m. on Friday and Saturday nights (Saturday and Sunday mornings).
- 13) The use, placement, or operation of street furniture objects in the public right of way shall not function in a manner that creates a public or private nuisance.
  - 14) No amplified sound shall be used within the public right of way, and at no time shall any music originating from any part of the premises create a nuisance.
  - 15) Dancing shall not be permitted or allowed in the public right of way.
  - 16) The permittee must at all times comply or cause the compliance with all federal, state and local laws regarding the sale, service and consumption of alcoholic beverages and the operation of the premises.
    - a. If alcohol is served, the business must possess and be in full compliance with a valid license from the California Department of Alcoholic Beverage Control for the proposed indoor and outdoor alcohol service.
    - b. At no point shall street furniture objects be used for a drinking establishment, where patrons are served alcohol without food also being consumed.
  - 17) Each permittee shall, at his or her own cost and expense, obtain and maintain in full force and effect all of the necessary insurance coverage for the full term of the street furniture objects' existence. The terms and level of coverage shall be in the amount to be determined by the City's Risk Manager and may be amended from time to time. Copies of current insurance coverage shall be provided to the City's Risk Manager annually and shall also be made available to the City's Risk Manager upon request.
  - 18) No Continuous Encroachment Permit for placement of street furniture objects in the public right of way may be transferred or assigned.
  - 19) The public right of way shall not be painted, landscaped or altered in any way without prior written approval of the city's director of Public Works.
  - 20) If any City facilities, including without limitation bicycle racks, trash cans, or other improvements, are proposed to be moved to accommodate proposed street furniture objects, the applicant for the street furniture objects Continuing Encroachment Permit, business owner, or property owner shall be responsible for all costs related to movement of said facilities. Movement of, or replacement of (should permit be revoked), any existing facilities shall be at the sole discretion of the Director of Public Works.
  - 21) Tables, chairs, and other street furniture objects shall be kept in a serviceable and clean condition at all times. Any broken furniture or equipment shall be removed immediately.
  - 22) Explicitly permitted signage associated with street furniture objects shall not count toward the business' aggregate signage under the provisions of the Zoning Ordinance. Umbrellas may contain letters displaying the name of the primary business. Such letters shall be a maximum of six

<p><b><u>Conditions of Approval:</u></b> (continued)</p>	<p>(6) inches in height, and each set of letters identifying the business may contain up to two logos for the business if those logos do not exceed six (6) inches in height. Additionally, umbrellas associated with a business placing street furniture objects may contain one larger logo of the business, and that one, larger logo shall be limited to a maximum size of two (2) square feet. The total signage area on the umbrella shall not exceed twenty-five (25) percent of the umbrella area. No generic advertising (i.e., Perrier, Corona, etc.) is allowed on the umbrella. Menu boards are limited to no more than two (2) feet by two (2) feet in size. Chalk boards may also be permitted. Any signage must be placed and sized as indicated on the approved plans.</p> <p>23) Any plants or landscaping approved as part of the street furniture objects Continuing Encroachment Permit plan shall be maintained in a live condition. Dead plant materials shall be removed and replaced.</p> <p>24) Streamers, balloons, banners, and other decorative items not specifically permitted herein are prohibited.</p> <p>25) The business owner shall maintain a copy of the approved Continuing Encroachment Permit and the associated approved plans and shall make copies of such documentation immediately available upon request by any City official.</p> <p>26) Payment of rent to the City for use of the right of way is not required at this time; however, the owner or operator of the establishment acknowledges that rent for the space may be assessed in the future at the direction of the City Council.</p>
<p><b><u>Process &amp; Costs</u></b></p>	<p>1) A complete application must be submitted to the Department of Public Works at City Hall in a manner described in this policy and on the Encroachment Permit application.</p> <p>2) Per City Council direction on January 28, 2013, the processing fee for the Continuing Encroachment Permit for placement of street furniture objects in the public right of way will be waived for the first year of implementation. The one-year waiver period begins on March 6, 2013, which is the effective date of this policy and the associated Zoning Ordinance Amendment, file number Z 12-05. During the one-year fee waiver period, staff will present Council with a modification to the comprehensive fee schedule that achieves cost recovery for the review and processing of the Continuing Encroachment Permit application.</p> <p>3) The Department of Public Works will take the lead on the review of the Encroachment Permit for street furniture objects, and as necessary, Public Works will coordinate with the Community Development Department, Fire Prevention, or others.</p> <p>4) Encroachment Permits for street furniture objects are typically considered Categorically Exempt under Section 15301 of the CEQA Guidelines. If necessary, staff will identify whether any additional materials are needed to establish the CEQA Exemption.</p> <p>5) At this point in time, the City does not charge any leasing costs for use of the public right of way. Applicants should be aware that the City may, at some point in the future, choose to charge for lease of the space in the public right of way for placement of street furniture objects. Prior to initiation of any such charges, outreach to all affected businesses would be completed.</p>