

Tinhorn Flats Myths and Facts

Myth 1: The City of Burbank forced Tinhorn Flats to close.

Fact: The willful actions of Tinhorn Flats' (THF) owners caused the closure of their restaurant. They continuously ignored and consistently violated COVID-19 rules established by the Los Angeles County Department of Public Health, including various restrictions on in-person dining, that other Burbank businesses complied with. Even after repeated warnings and violation notices, Tinhorn Flats continued to operate the restaurant after their health permit was suspended and revoked, serving patrons both indoors and out while also inviting people to eat at the restaurant.

Myth 2: The City ignored other businesses not following public health orders, focusing solely on Tinhorn Flats.

Fact: The City continues to enforce all health and safety regulations equally for all businesses in Burbank. Our Code Enforcement Team has visited 123 businesses during the ordered closures, working with each to promote resources available to local businesses and enforcing various public health and safety orders. Businesses that continued to defy the health orders are referred to the Police Department for further follow up and education. If the request for compliance was ignored, like Tinhorn Flats has repeatedly done, the complaints are referred to the County Health Department for further follow up. Tinhorn Flats was just one among many businesses that the City and County sought compliance from, but they are the only Burbank restaurant that has continually ignored the rules established by health and public safety leaders to protect our community.

Myth 3: The City of Burbank hasn't worked to help keep Tinhorn Flats open.

Fact: The City of Burbank has quickly launched several programs to help our small businesses survive the pandemic. The City has provided two separate series of small business loans totaling \$1,414,104 and adopted an Economic Recovery Plan to assist our business community as we emerge from the pandemic. Despite the challenges, the overwhelmingly majority of businesses in town complied with public health orders and placed our community's health and safety above business considerations.

Burbank Code Enforcement Officers and the Burbank Police Department, along with Los Angeles County Department of Public Health, worked with Tinhorn Flats to do the right thing and come into compliance with public health orders. Had Tinhorn Flats followed the rules, they could have stayed open for takeout like all other restaurants while Los Angeles County weathered a seven-week-long surge in the spread of COVID-19 from December 2020 to January 2021. And, if they had complied, they would now be open for indoor and outdoor dining as permitted in Los Angeles County

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Tinhorn Flats made their choice to disobey public health orders during the COVID-19 surge, potentially endangering people's health. This included Burbank residents, business owners and employees who demanded immediate action from the City to make them comply, joining others who were doing their part and sacrificing during this horrendous time period.

The question often offered by the public is, "What makes Tinhorn Flats so special that they don't have to comply?" As a result, the Los Angeles County Department of Public Health could not ignore the blatant disregard of the public health orders and were only left with one option: to issue citations to Tinhorn Flats.

The business has been cited by the County more than 40 times between December 10, 2020 and March 10, 2021. Besides the citations and resulting fines, Tinhorn Flats had their health permit suspended in December 2020 and revoked in January 2021 by the County.

The loss of their Public Health Permit is one of the crucial reasons that led the City to revoke their Conditional Use Permit. Among many requirements of their Conditional Use Permit, a County Public Health Permit is an essential necessity to operate a restaurant. When the County pulls a restaurant's Public Health Permit, the restaurant can no longer operate, and this action is done to protect the health and safety of the community.

Myth 4: Restaurants can open now, so Tinhorn Flats should be able to reopen now too.

Fact: Tinhorn Flats violated County health and safety orders that ultimately led to them losing their County Public Health Permit and City Conditional Use Permit. They no longer have the required permits to legally operate their business. To reopen, they will need to obtain a new County Health Permit and Conditional Use Permit from the City

Myth 5: The City won't let Tinhorn Flats obtain the correct permits to reopen.

Fact: Tinhorn Flats has not asked for the City's help in obtaining their new permits. Tinhorn Flats continues to be able to use all appeal processes in place.

Myth 6: Tinhorn Flats was only open for outdoor dining.

Fact: Tinhorn Flats continued to allow both outdoor and indoor dining during the recent COVID-19 surge and openly defied orders established by the Los Angeles County Department of Public Health to cease all in-person dining from December 10 2020, to January 24, 2021. Furthermore, beginning December 12, they were operating without a health permit. In addition to the numerous inspections by County and City officials where people were seen eating and drinking inside and outside the restaurant, many photos and videos were also found on social media showing patrons mask less and dining inside

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when this was specifically prohibited. Some of these photos were shared at the hearing to consider revoking Tinhorn Flats' Conditional Use Permit.

Myth 7: The City is overstepping their rights, picking on Tinhorn Flats. This is government overreach and the forced closure is eminent domain.

Fact: Each step the City has taken has been a result of Tinhorn Flats' defiance, as they have willfully disregarded the County's health orders. All actions taken by the City and County are legal and some actions were authorized by Court orders. The City does not relish having to enforce these rules but we are obligated to require compliance for the health and safety of our residents, business owners and visitors.

We continue to take measured actions based on Tinhorn Flats' behavior. The amount of staff time spent on this issue would have been better served helping our small businesses thrive and creating positive momentum for our City to come together as we recover from the pandemic. But instead, this time of recovery is being overshadowed by one defiant actor within our community. Tinhorn Flats has had numerous opportunities to comply and was provided with ample due process. Tinhorn Flats is closed and will remain so because they continue to refuse to comply with public health orders and they no longer have the required County Health Permit and City Conditional Use Permit.

The City has not used eminent domain or taken Tinhorn Flats' property. The City has provided them due process in the revocation of their land-use permit and red tagging of the property because of their consistent refusal to comply with public health orders after numerous warnings and citation. Tinhorn Flats can reapply for a land-use entitlement to operate at the site. Furthermore, the real property is not owned by Tinhorn Flats nor the City.

At any time during these past few months, Tinhorn Flats has had the ability to comply and ask the City to work with them on obtaining new permits. This has not happened, and they remain non-compliant.



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Action	Cause	Effect
1	Tinhorn Flats refused to close during the revised Safer at Home Order from December 10 to January 24, 2021 to reduce the spread of COVID-19.	The Los Angeles County Department of Public Health was forced to cite them for non-compliance.
2	Tinhorn Flats continued to ignore Los Angeles County Department of Public Health citations and Orders and operated indoor and outdoor dining.	The Los Angeles County Department of Public Health was forced to first suspend and then revoke the restaurant's Public Health Permit.
3	After losing their County Public Health Permit, Tinhorn Flats refused to close.	After giving notice and time to come into compliance, Tinhorn Flats continued to operate without a Public Health Permit and in defiance of Health Orders so the City was forced to revoke their Conditional Use Permit (CUP).
4	Tinhorn Flats continued to stay open without the required permits to operate the restaurant.	The City was forced to sue and ask the Los Angeles Superior Court for a Temporary Restraining Order telling them to stop operating.
5	The Court issues a Temporary Restraining Order, and Tinhorn Flats defied the Court's ruling and continued operating.	The City was forced to go back to Court, which enabled the City to turn off the electricity in another effort to obtain compliance.
6	Tinhorn Flats hooked generators directly into the electric panel and ignored safety regulations failing to protect their customers and creating a safety hazard.	The City was forced to issue a "red tag" notice marking the building as unsafe and off limits.
7	The Owner's son (representative) ignored the red tag notice, broke through locks and boards, and entered an unsafe building and continued to operate the restaurant.	The Burbank Police Department arrested the Owner's son, and due to his continued defiance, he was subsequently arrested two additional times. The City erected a fence to further secure the property.

Myth 8: Tinhorn Flats did not have to comply with the public safety orders as they are illegal.

Fact: This past year the entire world has been living in an unprecedented time, and the focus has been on preserving lives. The orders issued by the Los Angeles County Department of Public Health are enforceable, and violations of the Orders are a misdemeanor. Every person and business owner had a legal and moral obligation to comply.

Los Angeles County area restaurants sued the County in November 2020 when outdoor dining was prohibited by a Public Health Officer Order. The Court of Appeal ruled the Order was legal. There is no constitutionally protected interest to operate a restaurant in violation of the Public Health Orders, and therefore Tinhorn Flats was obliged to comply with all health and safety orders.

Myth 9: The City is not being strict enough and should never let Tinhorn Flats reopen.

Fact: The City has enforced the Orders, laws and judicial rulings just as it does with every other action it takes. There are processes in place that regulate enforcement and the City strives to act professionally and within the rule of law. During this time period, Tinhorn Flats was given due process (notice and a right to be heard) and provided warnings prior to revoking the City-issued Conditional Use Permit and Tinhorn Flats continues to be able to use appeal processes in place. Should Tinhorn Flats go through the process to obtain the legally required permits, they would be able to re-open.

Myth 10: Why doesn't the City just arrest them?

Fact: Arresting someone does not stop the restaurant from operating. The owner of the restaurant does not live in California and it is being run by his two adult children. After the City red-tagged the building as unsafe, the City did arrest the owner's son three times.

Myth 11: The City is not supporting small business.

Fact: The City has done a lot to support business during this trying time. Emergency Ordinances and orders have been put in place to allow outdoor dining in parking lots, and within the roadway in the Downtown area, as well as to expand the City's outdoor dining program. \$1,414,104 in forgivable loans have been allocated to small businesses, and educational business webinars have been placed on the City's Economic Development website.

In Downtown, City Council temporarily removed the Administrative Use Permit (AUP) process for new restaurants and allowed incidental alcohol sales for off-site consumption in restaurants, breweries, distilleries, and wineries, which will reduce the planning and

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permitting process for these businesses by six to nine months. Further, the City closed parts of San Fernando Boulevard to allow dining in parking spaces and for the street to be used as a pedestrian walkway.

Additionally, the City has promoted businesses on social media and is partnering with the Burbank Chamber of Commerce to create a restaurant promotional campaign.

Myth 12: Why can't the police shut down protests?

Fact: Protests are protected by the First Amendment and protesting is not illegal. It is the City's responsibility to allow safe protests. The Burbank Police Department has taken steps to allow protests to occur while ensuring public safety.