

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: GABE OSBURN,
DEPUTY DIRECTOR OF DEVELOPMENT SERVICES
RAISSA DE LA ROSA,
ECONOMIC DEVELOPMENT DIVISION DIRECTOR
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: PARKLET PROGRAM MANUAL ADOPTION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, by resolution: 1) adopt the Parklet Program Manual, outlining requirements to expand a business' outdoor operating space on a public street and assign existing service fees to applications initiated under the program; 2) authorize the Director of Planning and Economic Development to approve future changes to the Parklet Program Manual when references to Local, State and Federal Code requirements, adopted fees or application submittal processes require updating; and 3) authorize the Parking Manager to determine the total number of metered parking spaces within the Downtown Station Area that may be utilized for the permanent parklet program.

EXECUTIVE SUMMARY

The Parklet Program Manual provides a pathway for businesses to build outdoor spaces in the public right-of-way for business or public community uses. The COVID prompted temporary parklet and outdoor seating programs have allowed businesses to use parking and underutilized areas of public streets to offset indoor use restrictions connected to local and state health orders. A permanent program would outline installation requirements and ensure compliance with all associated federal, state and local codes, policies and standards, as well as set procedures and fees associated with these uses. The adoption of a permanent program will trigger the need to sunset all existing temporary parklet and outdoor seating permits and require either the removal of the associated installations or the conversion to permanent parklets. In addition, the proposed resolution addresses the loss of metered on-street parking within the Downtown Station Area and provides a recommendation to authorize the Parking

Manger to determine the number of metered parking spaces that may be utilized under the Parklet Program.

BACKGROUND

In March 2020, in response to local and state COVID-19 health order mandates, the City established requirements and guidelines associated with the use of the public right-of-way for the construction of temporary shared space areas (i.e., right-of-way areas not specific to parking) and parklets (curb-side areas taking up on-street parking spaces, also known as “street seats” or “curbside seating”) adjacent to any legal business use. These types of uses are normally established to accommodate unmet demand for public space on thriving neighborhood retail streets and commercial areas, and are guided by requirements on design, hours of operation, maintenance, uses, liability, and others. They are not limited to eateries, but may include other public uses such as seating, bicycle racks, and non-food related activities or uses. While this was generally true for the temporary program, that program was streamlined and abbreviated with the intent to support outdoor dining and other business needs, with or without table service, incidental to a public eating or other business establishment due to loss of indoor access. The interest was to use the temporary installations as a pilot program to inform the development of policies and procedures associated with permanent Parklets.

The permitting path that was applied to quickly allow the installation and operation of the temporary parklets and shared space uses was performed under an encroachment permit pursuant to Chapter 13.04 of the Santa Rosa City Code. Equally important, the use was tied to established occupancy rates of the given business, with the new outdoor area used to offset loss of the interior capacity. The Permittee is responsible for all requirements contained in the permit, as well as any applicable codes, polices and standards associated with the use of the public right-of-way or any public sidewalk easements.

PRIOR CITY COUNCIL REVIEW

On June 16, 2020, the Council approved the resumption of paid parking effective July 1, 2020, with certain parking fee reductions (including waiver of parking fees for temporary parklets) effective through December 31, 2020.

On December 15, 2020, the Council authorized the extension of certain parking fee reductions (including waiver of parking fees for temporary parklets) to the earlier date of June 30, 2021 or to when Sonoma County reaches the Yellow Tier of the State’s COVID restrictions and retroactively waived encroachment permit fees and building permits associated with relocation of business operations to exterior spaces.

PARKLET PROGRAM

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On April 27, 2021, the Council approved extension of the temporary reduction of certain parking user fees (including waiver of parking fees for temporary parklets) through June 30, 2021, regardless of when Sonoma County reaches the State's Yellow Tier for COVID restrictions.

On June 22, 2021, the Council held a study session to review the temporary shared space and parklet program, and to provide feedback and direction to staff.

ANALYSIS

The goals, policies, processes, procedures, and guidelines associated with the creation of parklets and shared spaces within the public right-of-way are outlined in the Parklet Program Manual (Attachment 1 to the Resolution). The Manual focuses on activating space within the public right-of-way that generally falls within the curb zone. Proposals to activate exterior spaces within the "frontage zone" or "furnishing zone" – areas of a public sidewalk outside of the required unhindered five-foot "through zone" or walking path area, as well as proposals on private property fall under a separate approval and permitting process.

The program differentiates between "Private Parklets" and "Public Parklets" as follows:

- A business that builds a PRIVATE PARKLET may limit the use of the parklet to members of the public who patronize the sponsoring business.
- PUBLIC PARKLETS are designated as publicly accessible open spaces where members of the public may freely use the parklet whether or not they patronize the sponsoring business(es) or organization.

An overview of the key elements of the program are as follows:

PERMIT REQUIREMENTS:

Requests for new parklets may be submitted under an encroachment permit application, consistent with the temporary program. Applications will be reviewed through a 2-step process with the initial review to determine site suitability. Only after a site is approved may the applicant move forward with and submit the full design. The design will be reviewed against the manual requirements, as well as all codes, policies and standards associated with accessibility and work within the public right-of-way. Appropriately licensed contractors are required to complete the installation, including the implementation of any necessary traffic or pedestrian controls needed for safety during construction.

PERMIT DURATION:

Encroachment permits will be issued for a 12-month period and must be renewed annually. This allows the City to deny the extension of the permit if existing conditions change or are confirmed to be imminently scheduled to change in the

general area and the parklet is no longer able to meet the published location requirements when requesting renewal. Permits may also be denied if the applicant is found to be consistently non-compliant with any element of their permit.

PUBLIC OR PRIVATE:

The use of parklets installed under this manual may either be made available to the general public at all times or restricted to patrons of the sponsoring business. Public and private parklets are defined in the “Definition” section of the manual and the various sections of the document point out where the requirements deviate based on the intended use.

PERMIT FEES:

By all accounts and across jurisdictions, the building of parklets and shared space uses are costly. Samples from Bay Area and national studies outline initial costs vs. annual costs, with initial costs being much higher than annual fees. For initial costs, installation, including materials, labor, and all relevant permits and fees, can run around \$10,000 to \$20,000 for a standard structure, with the bulk of the costs being structure related as opposed to fee related. Annual costs generally come down to renewal fees and general maintenance.

Specific to Santa Rosa, standard existing encroachment permit processing, plan review and inspection fees will be applied to all new parklet applications as published in the City’s Fee Schedule under “Encroachment Permit Fees.” Fees will be applied at the rates in effect at the time of permit submittal. The Encroachment Permit Renewal Fee, as described in the published fee schedule, will also be applied to the annual renewal of any approved parklet encroachment permit. In addition, the Public Information Services fee, as listed in the published City’s Fee Schedule under “Planning Application Fees”, will apply to address the costs associated with managing the public noticing process associated with each permit.

Water and Wastewater Demand Fees, at the rate published in the current City Fee Schedule, will apply to certain private parklets. The installation of a private parklet results in an increase in the useable square footage associated with the business operation. All commercial buildings pay a one-time utility connection fee based on the anticipated monthly sewer and water use. Increases in square footage typically result in an increase in the overall sewer and water use. A one-time demand fee, due prior to issuance of the encroachment permit, may be required to cover the additional demand that is calculated during the permit review process.

PUBLIC NOTICE:

New parklet applications will require a 15-day public noticing process. Any comments received during that period will be reviewed by the City prior to the City rendering a final determination. In cities that have developed parklet programs, it has been shown that people are more likely to support a project when they are

approached directly by the applicant as opposed to receiving notification through mail. Hence, it is strongly recommended that applicant discuss the proposal with the neighboring property owners or business operators prior to the formal submittal process.

TRAFFIC SAFETY:

Because Parklets are installed within close proximity to adjacent vehicular traffic, there are specific minimum measures that the applicant must take to protect the structure.

- Parklets may be permitted on active public streets with a speed limit of 25 miles per hour or less, and with a trip volume of less than 5,000 vehicles per day.
- Parklets must be at least 15' from any street corner or intersection, and 15' from any active driveway connection, unless it is determined by the Traffic Engineer that a lesser setback will provide the appropriate visibility for drivers exiting and entering the driveway.
- Water barricades are required when the edge of a parklet is exposed to oncoming traffic and is not protected by an adjacent parking stall.

UTILITIES and PUBLIC SAFETY:

Access to all surface utilities, such as sewer manholes, water meter boxes, water valve covers, and underground vaults must be maintained at all times. As part of the initial review process, the City will determine any conflicts with future programmed City sponsored capital improvement projects. The City may reject or delay the installation of a parklet that conflicts with any scheduled City streetscape improvement or utility project.

Similarly, clear access must be provided to fire hydrants and fire department connections at all times. Furthermore, Parklets will not be permitted in bus zones, or in blue or red curb zones, but may be located adjacent to a bus zone, as well as in yellow, white or green curb zones. Applicants will be responsible for the full cost associated with removing and relocating a color curb zone.

In addition to the application approval criteria, design criteria has been developed. Most importantly, parklets and shared spaces must be designed for easy removal given they may sit on top of critical infrastructure and utilities. Creativity is encouraged, though inclusive design (ADA compliance) is required.

METERED PARKING - DOWNTOWN STATION AREA:

The majority of outdoor seating installations allowed under the temporary permitting options put in place due to COVID-19 restrictions were installed in metered parking spaces within the Downtown Station Area (Downtown and Railroad Square).

Temporary parklets were not required to pay additional one-time or ongoing fees associated with the impacts to existing parking. Surplus parking exists within the

Downtown Station Area and it is anticipated that the loss of street parking due to a limited number of parklets will ultimately direct vehicular traffic to surplus parking within the existing parking garages and will not result in an impact to the Parking District's revenue. Therefore, staff is not recommending the addition of any parking impact fees for the Parklet Program.

In order to avoid a negative impact to the parking fund, staff is requesting the authority to set a cap on the number of on-street metered parking spaces that may be allocated to the Parklet Program in the Downtown Station Area. The proposed resolution will authorize the Parking Manager to set and modify the parking space allocation cap. Staff is proposing to set the initial cap at **50 on-street metered parking spaces**, which closely mirrors the amount of parking spaces consumed by the temporary parklet and outdoor seating programs. Parking spaces will be assigned on a first come, first served basis and will be proportionately distributed between the Railroad Square and Downtown areas based on the percentage of parking each sub area has of the total available metered parking within the Downtown Station Area.

CALIFORNIA ALCOHOL BEVERAGE CONTROL (ABC):

Applicants must comply with all ABC regulations regarding alcohol use for the associated establishment.

EXISTING TEMPORARY OUTDOOR SEATING PERMITS – SUNSET DATE:

In response to COVID-19 restrictions, the Planning and Economic Development Department issued 21 temporary outdoor seating encroachment permits to various businesses within the Downtown Station Area. The permits were issued under the existing authority granted to staff within Title 13 of the Santa Rosa City Code. In order to encourage compliance with the Parklet Program Manual, the Planning and Economic Development Department will be sunsetting the temporary outdoor seating and parklet programs. No additional permits will be accepted for temporary outdoor seating and parklet proposals after the Parklet Program Manual adoption. All existing temporary permit holders must either remove the temporary seating installations or submit a complete application to convert the space to a permanent parklet by **September 12, 2022**. The date is intended to provide ample time to prepare the associated permitting documents for applicants that wish to move forward with the permanent program and provide additional outdoor seating options through the summer months for those that wish to ultimately abandon the existing temporary seating areas.

Temporary permit holders wishing to file an application under the Parklet Program Manual will be permitted to retain the temporary seating during the permit review period. Any delays in the permit review process exceeding 60 calendar days that are the direct results of an inaction by the applicant may result in the requirement to remove the temporary seating.

Any failure by the permit applicant to remove any items in the public right-of-way within the timeframes specified by the Planning and Economic Development Department may result in the City taking action to clear the public right-of-way. If City forces are utilized

to remove items due to non-compliance, the applicant may be required to cover any costs incurred by the City associated with the removal processes.

FUTURE PROGRAM MANUAL UPDATES:

The proposed Parklet Program Manual includes references to various State, Federal and Local Codes associated with the use of the public right-of-way, as well as specific construction and accessibility elements. Regular updates to the manual will be required in the future in order to ensure compliance with current applicable codes. The Parklet Program Manual also highlights specific application submittal requirements and describes internal processing steps associated with the review of individual applications. Staff regularly updates application submittal processes to increase clarity and efficiencies and to properly display adopted fees. Staff is recommending that the Council authorize the Director of the Planning and Economic Development Department to amend the Parklet Program Manual in the future to align with current code requirements, adopted fee schedules and permit intake and processing procedures.

RELEVANT STATE LEGISLATION (*approved and filed on 10/8/2021*):

- AB 61, Gabriel. Business pandemic relief.
A business pandemic relief bill authorizing the ABC to extend the period of time during which the COVID-19 Temporary Catering Authorization is valid. In addition, the Planning and Zoning Law authorizes the legislative body of any city or county to adopt ordinances that regulate zoning within its jurisdiction, as specified. Under that law, variances and conditional use permits may be granted if provided for by the zoning ordinance.
- SB 314, Wiener. Alcoholic beverages.
This bill authorizes the ABC, for a period of 365 days following the end of the state of emergency proclaimed by the Governor on March 4, 2020, in response to the COVID-19 pandemic, to permit licensees to exercise license privileges in an expanded license area authorized pursuant to a COVID-19 Temporary Catering Authorization. The bill would also authorize the ABC to extend the period of time during which the COVID-19 Temporary Catering Authorization is valid beyond 365 days if the licensee has filed a pending application with the department for the permanent expansion of their premises before the 365-day time period expires. The bill would make these provisions effective only until July 1, 2024, and repeal them as of that date.

Furthermore, existing law, with exceptions, prohibits a licensee from having, upon the licensed premises, any alcoholic beverages other than the alcoholic beverage that the licensee is authorized to sell at the premises under their license. This bill, as an exception to that prohibition, authorizes a licensed manufacturer to share a common licensed area with multiple licensed retailers, subject to specified provisions as stated in the bill.

FISCAL IMPACT

The proposed Parklet Program requires the applicant to pay permitting and public noticing fees based on the published fees in effect at the time of application submittal. Plan check, inspection, processing and public noticing fees are calculated to support the staff time involved in the review, processing and inspection process. Although the program creates a new and unique permitting path, it is anticipated that the annual permit volume will be low and can be properly addressed with the existing staffing resources within the Planning and Economic Development department. Additional staffing costs to support the Parklet Program are not anticipated.

The Parklet Program will permit the placement of new parklets within existing on-street metered parking spaces within the Downtown Station Area. Surplus parking exists within the Downtown Station Area and it is anticipated the reduction of available on-street parking will direct vehicles to existing City garages and negate any impacts to the Parking District's revenue. Authorizing the Parking Manager to cap the number of on-street metered parking spaces dedicated to the Parklet Program will ensure that the number of spaces taken by parklet applications is offset by spaces available within the existing pool of surplus parking.

ENVIRONMENTAL IMPACT

This action has been found to be exempt from the California Environmental Quality Act (CEQA) for each of the following reasons: (1) it is not a project pursuant to CEQA Guidelines Section 15378 in that the activity does not have the potential to result in a physical change in the environment or, in the alternative, (2) the action qualifies for a class 1 categorical exemption pursuant to CEQA Guidelines section 15301 as an activity that would involve only minor alteration of existing facilities and (3) the action further qualifies for a "common sense" exemption pursuant to CEQA Guidelines section 15061(b)(3) an activity that will not have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution / Exhibit A - Parklet Program Manual

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