

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: RAISSA DE LA ROSA,
ECONOMIC DEVELOPMENT DIVISION DIRECTOR
GABE OSBURN,
DEVELOPMENT SERVICES DIVISION DIRECTOR
SUBJECT: PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SHARED SPACE AND PARKLET UPDATE, AND PERMANENT
PROGRAM OPTIONS

AGENDA ACTION: STUDY SESSION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council review the Shared Space and Parklet Program information and provide direction.

EXECUTIVE SUMMARY

Staff will present an update on the COVID prompted temporary Shared Space and Parklet Program and provide options for transitioning the temporary program into a permanent codified community opportunity. The temporary Shared Space and Parklet Program has allowed businesses to use the public right of way to offset indoor use restrictions connected to local and state health orders. A permanent program would codify installation requirements and ensure compliance with all associated federal, state and local codes, policies and standards.

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 (e.g. sidewalks and other 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

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limited to eateries, but may include other public uses such as seating, bicycle racks, and non-food related activities or uses. While this remains generally true for the temporary program, the 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.

Temporary parklets are not permitted to incorporate any advertising, amplified sound, or the consumption of alcohol except in conjunction with a public eating establishment with a valid California Alcoholic Beverage Control license. Further, the interest was to use the temporary installations allowed under this permitting path as a pilot program, which would help 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.

Encroachment permits have been issued for a period of time extending 12 months from the date of application submittal. Applicants were informed they may have the option to retain the use in a more permanent fashion through a separate permitting process in the future, depending on the timing of occupancy rates allowed under the health orders in coordination with the timing of an enabling ordinance. The Planning and Economic Development Department has worked closely with applicants through the review of the temporary encroachment permit to determine if the location selected will potentially be eligible for a permanent installation through future processes.

When Sonoma County moved to the Orange Tier of the State Blueprint for a Safer Economy on April 7, 2021, and in anticipation of the continued easing of indoor use restrictions, the question of outdoor occupancy offsets becomes more critical in the allowance of this permitting means. All business are assigned a certain occupancy group (business, mercantile, assembly, etc.) that recognizes the specific type of business operation. An occupancy load calculation is performed by a licensed professional (architect or civil engineer) at the time in which the interior or permanent exterior space of the operation is permitted. Occupancy load calculations factor in the proposed design and layout of the use and calculate the number of people projected to fill the space based on the specific occupancy group. This calculation is extremely important and plays a significant role in the number of

exits, the number of bathrooms, fire rating and accessible path of travel.

Parklets and outdoor seating and use areas allow business operations to increase the square footage of their service area, as well as the number of people that may occupy it. If the business operator does not reduce the use of the interior space in a fashion that directly offsets the additional exterior area, the business may exceed their occupancy loads. The risk of exceeding allowable occupancy levels increases as Sonoma County moves closer to allowing unrestricted use of interior space. Business operators desiring to maintain their temporary use of the right-of-way will be required to perform a formal occupancy load calculation showing that the programed use of the interior and exterior spaces is not exceeding previous calculated occupancies or identify and fulfil through the associated permitting processes any specific code requirements associated with an exceedance in the occupancy levels.

As encroachment permits are a satisfactorily viable pathway to allow the temporary shared space and parklet uses, Council approval was not needed, though the Economic Recovery Task Force reviewed and was involved in the development of the program. That said, a permanent program is needed to directly apply standard public safety, design, maintenance and operational requirements, and to address other issues related to the use of public space.

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.

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.

ANALYSIS

For the purposes of public safety, accessibility, access to public utilities, Fire Department and traffic considerations, maintenance and operation needs, and aesthetics among others, a permanent program with clear guidelines and processes is

needed. The specific code requirements listed below were applied to the Temporary Use of Public Right-of-Way for Parklets (Attachment 1) document and will represent the basic foundation of any future permanent Parklet and shared space policy. The requirements listed below either represent minimum federal, state or local code requirements or were developed to preserve the integrity of existing public infrastructure and increase safety measures. Planning and Economic Development will be working closely with all City Departments affected by the placement of Parklets in the public right-of-way and it is anticipated that the requirements will be modified as the long-term impacts are further analyzed and the framework for a permanent program is developed.

Accessibility

- All seating areas shall meet accessibility requirements outlined in the Americans with Disabilities Act (ADA).
- Access to any features afforded to customers shall be provided to those with access needs. Access to restrooms, pay stations or any other features must be provided in an equivalent fashion

California Alcoholic Beverage Control (ABC)

- All applications shall comply with all applicable ABC regulations regarding alcohol use in any outdoor seating areas associated with an operation permitted to serve alcohol.

Construction

- Bolting or anchoring into the roadway surface, curb or gutter shall not be permitted
- The Parklet shall be constructed in a fashion that meets all associated ADA requirements addressing transitions and slopes.
- Soft hit posts, wheel stops and reflective elements are required on the outside corners of both sides of the Parklet. The Traffic Engineer may require the placement of water filled barricades longitudinally along the Parklet and on the vehicle approaching end of the Parklet. Barricades shall have white retroreflective tape or markings such that they are visible at night.
- Access panels to maintain the gutter and any other utility boxes or covers must be incorporated into the design

Drainage

- Decking material, planter boxes or any other improvements that rest on the street surface shall be constructed and placed in a manner that does not negatively impact existing drainage patterns.

Fire

- Construction of the parklet and any related components such as, but not limited to, lights and tents, shall meet all applicable fire codes.
- Minimum access and clearance requirements for all existing fire appliances including but not limited to, hydrants, standpipes, extinguishers, alarm panels,

utility shut offs and alarm pull stations shall be maintained at all times

Traffic

- Parklets proposed within public parking spaces adjacent to active vehicular travel lanes will be permitted when the speed limit in the area is 25 miles per hour or less and the total trip volume on the road is less than 5,000 vehicles per day.
- Parklets must be proposed on straight sections of the roadway and avoid areas where curves exist.
- Unless otherwise determined by the Traffic Engineer, all portions of a parklet shall maintain the following clearances:
 - 25' from any public street intersections
 - 20' from any existing driveway or alley connections
 - 1' minimum clearance from any adjacent vehicular travel lanes
 - 2' minimum clearance from any adjacent vehicular travel lanes on installations proposed in diagonal or perpendicular parking areas.
- Any parklet built adjacent to an intersection or driveway must provide a clear unobstructed view for a driver 2.75' to 7' in height.

Maintenance and Operations

- The parklet area shall be maintained in good condition and all landscaping shall be kept in good health. Any dead or dying plants should be promptly removed and replaced
- The permittee shall be required to submit a maintenance plan for keeping the space free of litter and graffiti.

Public Utilities

- Access to all above ground utility structures must be provided at all times. Attempts should be made to maintain a 5' separation from all surface utilities, covers or structures.
- Whenever possible, attempts should be made to avoid the placement of parklets directly over any underground utilities, such as water or sewer.

While staff is able to address the technical aspects in the areas highlighted above, the two core questions that remain and for which Council direction is requested are:

- Public or private
- Cost for use of the space (fees, etc.)

Public vs. Private Use

Outdoor dining on sidewalks is a by-right use in the downtown area so long as there is adequate, unimpeded pedestrians pathway access. Requirements associated with the placement and operation of Sidewalk Cafes are currently described in Section 20-42.160 of the City Code. This use is most typically a privatization of the sidewalk space for sole use and under the management of the adjacent business.

For parklets, on the other hand, there may be questions or concerns about the privatization, commercialization and commodification of city right of way. The initial

options cities face related to parklet policy are:

- to have parklets be extensions of the privatized sidewalk use where only patrons of the business that installed the parklet may use the space,
or
- to make parklets privately owned public spaces, available for anyone to use whether they buy something or not from the sponsoring business.

It may be possible to do a hybrid approach where for a higher fee some parklets may be privatized, while those open for public use have a lower fee structure. Staff has not identified any areas in which this model has been applied, so has no reference as to viability or effectiveness.

City Fees and Costs

There are many direct and indirect costs related to both the initial permitting and the ongoing operation of parklets. The total fee package may shift based on whether a parklet is permitted as a privately owned and managed public space or an exclusive private space for the owner's sole use. At a high level and most commonly considered when developing fees for a curbside use program include:

- Paid parking revenue offset – options include:
 - Setting a revenue baseline by metered space, block, or area based on an average of the most recent 12 months of paid parking revenue at time of application, or a set period such as the most recent calendar year or fiscal year in which parking revenue was collected for parking use. This may lead to different costs depending on the area, as well as the possibility of determining a use cost in non-metered areas.
 - Determining a set fee regardless of location within areas with paid parking, and another set fee in all other areas without metered parking.
 - Not charging for use of paid parking spaces for non-parking purposes (taking those parking spaces out of inventory).
 - Currently approved parking meter reservation fees are \$15/day in the Premium Zone and \$12/day in the Value Zone. Meter reservation fees have been waived by Council for temporary parklets to the later date of June 30, 2021 or the date the encroachment permit expires for the temporary parklet. The estimated revenue reduction to the Parking Fund for waived meter reservation fees for 25 temporary parklets is \$175,000 from July 1, 2020 to April 30, 2021.
- Encroachment Permit

All construction activities within the public right-of-way must be performed under an issued encroachment permit. Under the current fee schedule, encroachment permit applicants must pay processing, traffic control and plan check and inspection fees, which are intended to provide cost recovery for the staff time associated with the application processing, plan review and inspections. The currently published fees are as follows:

 - Encroachment permit processing: \$128.00

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- Traffic Control: \$147.00
- Plan Check and Inspection: Varies – fee is calculated based on a percentage of the value of the proposed public improvements. Parklets typically do not require the modification or addition of any public improvements and would not trigger a plan check and inspection fee under the current fee schedule. The existing encroachment permit fee package will be reviewed during the development of a formal policy in order to determine if it provides the appropriate cost recovery for the review and inspection of a parklet.
- Revocable License Agreement

Section 13-04.090 of the City Code requires the execution of an agreement to address continuing encroachment in the public right-of-way. Continuing encroachments are typically defined as those that remain in the right of way for a period exceeding 12 months. City Council Resolution 26620 adopted a form of a revocable license agreement for long term encroachment permits and set fees for the processing associated with the agreement and the annual licensing. The licensing fee was originally calculated to cover the staff time associated with the ongoing inspection and compliance review. The resolution also set an escalator and requires that each fee increase by 4% each year. Based on the original base fee amounts and the annual escalator, the current processing and license fees are as follows:

 - Agreement processing fee: \$274.50
 - Annual license fee: \$412.65
- Water and Wastewater Demand Fees

Water and wastewater demand fees are one-time fees, charged to customers, for connecting to the City of Santa Rosa's public water and wastewater systems. Demand fees are charged for new connections, expansions, or modifications to the existing use of the City's public water and wastewater systems. Parklets will only be responsible for this fee type if the anticipated increase in use exceeds the credits allocated to the parcel associated with the Parklet. This fee will also only be required if a Parklet is dedicated for the private use of an individual business or entity. The water and wastewater demand fee calculations for a 300 square foot parklet are as follows:

 - Water Demand = \$912.0
 - Sewer Demand = \$3,610

The fee above are based on a demand fees study going before Council tentatively scheduled for 6/28/2021. Fees will be adjusted based on the proposed square footage of the parklet.

All costs related to building, operating, maintaining and, if needed, costs associated with modifications/removal for access to public utilities would be the responsibility of the applicant.

FISCAL IMPACT

As this is a study session, there is no fiscal impact on the General Fund. For context and future Council consideration, the estimated revenue reduction to the Parking Fund for waived meter reservation fees for 25 temporary parklets is \$175,000 from July 1, 2020 to April 30, 2021.

ENVIRONMENTAL IMPACT

This study session is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Temporary Use of the Public Right of Way for Parklets
- Attachment 2 – DRAFT Santa Rosa Parklet/Shared Space Process

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