

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SECTIONS 14.15.020, 14.15.030, 14.15.100, AND 14.15.110, ALL RELATING TO PARKLETS

WHEREAS, on December 18, 2018, Ordinance ORD-18-0031 was adopted to streamline the permitting process for temporary installation related to sidewalk dining and parklets within the City’s right-of-way; and

WHEREAS, in the Spring of 2020, in response to the impacts of the COVID-19 pandemic and changing Health Orders, the City of Long Beach embarked on an Open Streets Initiative, which included a temporary parklet program; and

WHEREAS, the temporary parklet program has served its purpose of assisting restaurants to retain some income while indoor dining was not allowed, and then limited; and

WHEREAS, restaurant indoor dining is back to pre-pandemic capacities and the temporary parklet program is intended to sunset in January of 2023; and

WHEREAS, the existing language of the permanent parklet ordinance needs reevaluation due to unintended consequences that place an undue burden on community groups; and

WHEREAS, the City Council directed the City Manager to work with the City Attorney and the Director of Public Works to reevaluate Chapter 14.15 to add a requirement to post a public notice at the premises notifying the public of the permanent parklet application and the method to submit written support or opposition to the application with the Department of Public Works and that a permanent parklet permit shall be obtained from the City Council if the parklet application receives written opposition;

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
2 follows:

3
4 Section 1. Section 14.15.020 of the Long Beach Municipal Code is hereby
5 amended to read as follows:

6 14.15.020 General requirements.

7 A. No person shall use or occupy the public walkway or other right-
8 of-way with any obstruction for providing a parklet without first obtaining a
9 written permit from the City through its Department of Public Works; provided,
10 however, the permit shall be obtained from the City Council if (1) the
11 proposed parklet will occupy more than ten percent (10%) of the available
12 parking spaces within a two -block radius, (2) is opposed as described in
13 Section 14.15.030 of this Chapter, or (3) will be for uses other than dining,
14 entertainment, seating, planting, landscaping, lighting, shade, bicycle parking
15 and/or artwork. Permits are not transferable. This Chapter shall not be
16 applicable to any activity performed pursuant to and permitted by other
17 Chapters of this Code.

18 B. Permits may only be issued to owners of property directly
19 adjoining that portion of the public walkway and/or other right-of-way upon
20 which the obstruction is to be located, or to lessees of such property with the
21 consent of the property owner.

22 C. Permits for providing a parklet may only be issued for
23 obstructions in areas located outside the coastal zone, unless a separate
24 Local Costal Permit has been issued for such obstructions subject to the
25 terms of this Chapter.

26 D. Permits for providing a parklet may only be issued if the
27 vehicular speed limit of the adjoining street is no more than twenty-five miles
28 per hour (25 mph), unless (1) traffic calming improvement(s) are constructed

1 as required by the City Engineer or Traffic Engineer or (2) a permanent curb
2 extension is constructed per City standards, which complies with all sidewalk
3 dining requirements of Chapter 14.14 (Occupation of Public Walkways) and
4 is otherwise approved by the Director of Public Works. If a permanent curb
5 extension is constructed in accordance with this Section, then the noticing
6 requirements of Section 14.15.030 of this Chapter shall apply.

7 E. The permit may be suspended or canceled at any time at the
8 discretion of the Director of Public Works, in the event that it is determined
9 that the obstruction would interfere with street improvement activities,
10 construction activities, cleaning efforts or other similar activities. The permit
11 may also be suspended at any time, if, in the discretion of the City Engineer
12 or Fire Marshal, the obstruction threatens the public health or safety.

13 F. Permits may contain restrictions for hours of the day or days of
14 the week during which the obstruction may occupy a public walkway and/or
15 other right-of-way as determined by the Director of Public Works in his or her
16 discretion.

17 G. Permits shall be issued for an initial period not to exceed one
18 (1) year. Upon expiration, a new permit must be obtained on the basis of a
19 new application, or a renewal permit must be obtained. Notwithstanding the
20 above, such permits may be terminated by the City upon thirty (30) days'
21 notice of the City Engineer.

22 H. The Director of Public Works or designee is authorized to renew
23 an existing permit in good standing for additional one (1) year periods
24 provided either: (1) the applicant is not seeking any modification of the
25 existing permit; or (2) any modification sought by either the applicant, the City
26 Engineer or the Fire Marshal is deemed by the Director of Public Works to be
27 a "minor modification of an existing permit", as defined in Section 14.15.010.

28 I. No permit obtained under this Chapter shall excuse the

1 permittee's obligation to obtain and comply with any other permit or license
2 required by the City or any other regulatory agency.

3
4 Section 2. Section 14.15.030 of the Long Beach Municipal Code is hereby
5 amended to read as follows:

6 14.15.030 Parklet permit – Application filing and process.

7 A. A person desiring to occupy a public walkway and/or other
8 right-of-way for providing a parklet shall file an application for such
9 authorization with the City. The applications shall be on a form provided by
10 the City or accessible from the City's website and shall be signed by the
11 permittee or his/her duly authorized agent. Any person signing the application
12 as an agent shall furnish a written authorization executed by the permittee
13 designating the person signing the permit as the permittee's duly authorized
14 agent for such purpose. Such authorization will remain in full force and effect
15 until revoked by a written document signed by the permittee and filed with the
16 City. Such application shall be accompanied by plans satisfactory to the City,
17 which show in detail the proposed obstruction and method of securing it to
18 public property including public infrastructure. The application shall be filed
19 under penalty of perjury. False statements therein will constitute grounds for
20 denial, suspension, or revocation as applicable. An incomplete application
21 shall not be accepted for processing.

22 B. Change in contents. Any change in any information in the
23 application which occurs after the application has been filed, and prior to City
24 Council approval, if applicable, must be submitted in writing to the Director of
25 Public Works within ten (10) calendar days after the change has occurred.

26 C. Review. On receipt of a complete application, the Director of
27 Public Works shall refer it to all concerned City departments for review. Such
28 departments shall file their comments and/or recommendations regarding the

1 approval or denial of the permit with the Director of Public Works within thirty
2 (30) days after the application is filed, except where circumstances beyond
3 the control of the City justifiably delay such response.

4 D. Public Notice. After filing an application, a public notice shall be
5 posted in such form as the Department of Public Works shall prescribe for at
6 least thirty (30) days. Failure of any member of the public to see the notice
7 shall not invalidate an action taken on the request for a parklet permit. The
8 applicant shall pay all costs of such notice in the manner prescribed by the
9 City's Director of Public Works.

10 The notice shall:

11 1. Be posted in a prominent place visible from the street
12 frontage immediately adjacent to the proposed premises.

13 2. Include the contact information for the Department of
14 Public Works printed near the bottom of the sign with detailed instructions on
15 the method for submitting written support or opposition for the parklet permit
16 application.

17 Written support or opposition shall be submitted in a form
18 prescribed by the Department of Public Works. Written support or opposition
19 shall be filed with the Department of Public Works prior to the issuance of a
20 parklet permit.

21 E. Hearing.

22 1. Upon receipt of opposition as described in subsection
23 (D) of section 14.15.030, the Director of Public Works shall transmit the
24 application, together with the comments and recommendations of the City
25 departments, to the City Council for hearing and shall notify the applicant and
26 persons submitting written support or opposition for the parklet permit
27 application of the date, time and place of the hearing which shall be held
28 before the City Council on the first available hearing date.

1 2. Prior to scheduling the hearing, the Director of Public
2 Works shall give the applicant notice of the recommendations of the City
3 departments.

4 3. Notice of the time and place of the hearing shall also be
5 given by posting notice at the property in a conspicuous location at the site
6 of the proposed parklet. The applicant shall pay all costs of such notice in the
7 manner prescribed by the City's Director of Public Works.

8 4. Where the Director of Public Works does not
9 recommend approval of a permit, the Director of Public Works shall inform
10 the applicant of the reason(s) for the denial in writing prior to the date the
11 permit is scheduled for City Council consideration.

12 5. In issuing the permit, the City Council may impose
13 conditions relating to the operation of the parklet. Conditions may relate to
14 the location, design, and operations of the parklet. Conditions shall be listed
15 on, or attached to, the permit. The City Council shall give the permittee an
16 opportunity to review any proposed conditions and the City Council shall
17 consider the input of the permittee prior to imposing those conditions.

18 6. Notwithstanding City Council approval of the application
19 for the permit, the applicant shall not operate until a permit is actually issued
20 by the Director of Public Works. Upon approval of the application, the
21 Director of Public Works shall issue the permit, provided that the applicant
22 has met all conditions imposed by any City department, has complied with all
23 applicable laws, and has paid the applicable license tax and permit fees. The
24 applicant shall have a maximum one hundred eighty (180) days after City
25 Council approval to meet all applicable conditions. Failure to do so within
26 that period shall render the City Council approval void, unless an extension
27 of the compliance period is granted by the City Council before the compliance
28 period has expired.

1 Section 3. Section 14.15.100 of the Long Beach Municipal Code is hereby
2 amended to read as follows:

3 14.15.100 Revocation and nonrenewal.

4 A. The Director of Public Works or City Engineer may revoke,
5 refuse to issue, or renew a parklet permit if such person has failed or refused:

6 1. To pay any fees for permits, security deposits or charges
7 as established by the City Council;

8 2. To repair public improvements damaged as a result of
9 the parklet occupancy of the public walkway or other right-of-way;

10 3. To comply with the terms of this Chapter or of a permit
11 granted hereunder.

12 B. The Director of Public Works may also refuse to issue or renew
13 a permit for providing a parklet in an area where such occupancy threatens
14 the public health or safety, will be inconsistent with the public's use of the
15 public walkway or other right-of-way, access needs or the use of any property
16 located adjacent to the public walkway or other right-of-way.

17
18 Section 4. Section 14.15.110 of the Long Beach Municipal Code is hereby
19 amended to read as follows:

20 14.15.110 Appeal - City Council.

21 Except for minor modifications to an existing permit, any other
22 determination or modification to a permit made by the Director of Public
23 Works or City Engineer may be appealed to the City Council within ten (10)
24 calendar days from the date of such determination or modification in the
25 manner provided in this Section. Determinations or modifications to a permit
26 made by the City Council shall be final.

27 A. The request for appeal shall be in writing, shall set forth the
28 specific ground(s) on which it is based and shall be submitted to the Director

1 of Public Works.

2 B. If the appeal is made by a permittee or any person other than
3 the permittee, such appeal shall be accompanied by an appeal deposit in an
4 amount determined by the City Council by resolution and specified in the fee
5 schedule.

6 C. The City Council shall conduct a hearing on the appeal or refer
7 the matter to a Hearing Officer, pursuant to Chapter 2.93 of this Code, within
8 sixty (60) business days from the date the completed request for appeal was
9 received by the Director of Public Works, except where good cause exists to
10 extend this period. The appellant shall be given at least ten (10) business
11 days written notice of such hearing. The hearing and rules of evidence shall
12 be conducted pursuant to Chapter 2.93 of this Code. The determination of
13 the City Council on the appeal shall be final.

14
15 Section 5. The City Clerk shall certify to the passage of this ordinance by
16 City Council and cause it to be posted in three (3) conspicuous places in the City of Long
17 Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council
of the City of Long Beach at its meeting of _____, 2023, by the
following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor