

From: Melinda Cotton [mailto:mbcotton@hotmail.com]

Sent: Monday, January 16, 2023 9:18 PM

To: Council District 3 <District3@longbeach.gov>; CityClerk <CityClerk@longbeach.gov>; Mayor <Mayor@longbeach.gov>; Council District 9 <District9@longbeach.gov>; Council District 6 <District6@longbeach.gov>; Council District 8 <District8@longbeach.gov>; Council District 7 <District7@longbeach.gov>; Council District 5 <District5@longbeach.gov>; Council District 4 <District4@longbeach.gov>; Council District 2 <District2@longbeach.gov>; Council District 1 <District1@longbeach.gov>; Council District 3 <District3@longbeach.gov>

Cc: Tom Modica <Tom.Modica@longbeach.gov>; Dawn McIntosh <Dawn.McIntosh@longbeach.gov>

Subject: Concerns with LB Muni-Code 'Parklets' Revision at Council 1/17/23 Item #28: New Costs to Appellants, Inadequate Public Noticing, etc.

-EXTERNAL-

To: Councilwoman Kristina Duggan, Mayor Rex Richardson, Vice Mayor Cindy Allen and City Councilmembers

Dear Councilwoman Duggan,

As the Councilmember with the most new applicants for 'Permanent Parklets' (19 applicants out of a total of 32 citywide) - I'm sure you will be carefully considering the Parklets Muni-Code Revision on Tuesday's Agenda. It's a significant decision for the Council as a whole.

It's been a short turnaround for a complex Code revision, there's been little public notification or media coverage, and there are a number of confusing and important unanswered questions.

It's a shame that a Draft of the new Ordinance wasn't discussed at a public meeting, where there could be public input and questions answered before the 'Revision' was sent to Council. I phoned and left a message for the Deputy City Attorney in December, but received no call back, and I've been trying since the Agenda (Item 28) came out Tuesday to get answers to questions about hearing and appeal costs, LCP/CDP process, details of Public Noticing, etc.), but so far no luck.

Given the confusion, it seems the Council should only discuss the Draft Ordinance, receive Public Comment and recommend changes on Tuesday (Jan. 17th) and then have it brought back for final action.

Below are a few examples of concerns:

** New Costs to Appellants/Opposition It's not clear when a person or organization opposing a specific Parklet needs to pay for a hearing or appeal. The City Attorney's Office specifically 'red-lined' the sentence that said "~~For appeals made by any person other than the permittee, there shall be no required appeal deposit.~~" (revision document attached) So that puts on residents (or retail and office tenants, public in general) the onus of having to pay what looks like \$400+ per

organization or individual for a hearing or to appeal. That's a very heavy burden. (See Fee Schedule below "Appeal to City Council by Third Party" - \$400.00)

14.15.110 Appeal—City Council.

- B. ~~If the appeal is made by a permittee involving such permittee's existing permit or any person other than the permittee, such appeal shall be accompanied by an appeal deposit in an amount determined by City Council by resolution and specified in the fee schedule. For appeals made by any person other than the permittee, there shall be no required appeal deposit.~~

****ALSO** - 2nd Street in Belmont Shore and the Belmont Pier are under either LCP (Local Coastal Program) requirements or CDP (Coastal Development Permit) requirements - which will generate separate Development Services/Planning requirements - these would entail additional fees of \$400.00 each if the Planning Commission (or Zoning Admin Hearing) rulings have to be appealed. (And if Development Services puts the item in the Zoning Admin. hearing one can only appeal to Planning Commission, ruling out an option to go to City Council - not sure if this could happen as the City Council asked that Permanent Parklet Applicant issues come to them).

***ALSO** - Instead of using the Development Services codified Public Noticing requirements, which would perfectly fit the Parklets Noticing needs, the Revised Muni Code allows the Public Works Department to 'prescribe' its own noticing, saying:

D. Public Notice. After filing an application, a public notice shall be posted in such form as the Department Public Works shall prescribe for at least thirty (30) days.

As I recall the Development Services Public Noticing requires a specific size and location of sign, the length of time and also mailed Notices to neighbors within a specific distance ... 300 or 500 feet not sure, which is important for residents and neighboring businesses.

I've attached the latest list of new 'Permanent Parklet Applicants' that Public Works sent out on Thursday. Nineteen of the 32 New Applicants are in District 3, twelve are in Belmont Shore... and a number of other restaurants in the Shore have indicated plans to apply. That's a lot of lost parking spaces, as well as impact on our narrow sidewalks, Disabled Access and Coastal Access. (I've attached for your review copies of letters from the City's Disability Commission and from the Disability Lawyers handling the expensive previous ADA lawsuit settlement.)

Sincerely,
Melinda Cotton
40-year resident Belmont Shore

-- Below from City of Long Beach Master Fees and Charges Schedule:

Current Master Fees and Charges Rates as approved by City Council

Keywords
 Department -- Search All Departments -- ▼
 Main Activity -- Search All Activities -- ▼
Search

<u>Fee Name</u>	<u>Fee</u>
<u>Select</u> Appeal to Planning Commission by Applicant	4,820.00
<u>Select</u> Appeal to Planning Commission by Third Party	400.00
<u>Select</u> Oil Well Appeal	See Appeal Fees
<u>Select</u> Appeal Filing Fee (City Council)	\$1,549.00
<u>Select</u> Continuance - PC/CHC/Council	\$2,305 per application. Public Hearing Noticing fees are separate
<u>Select</u> Appeal to City Council by Applicant	4,735.00
<u>Select</u> Appeal to City Council by Third Party	400.00
<u>Select</u> Appeal to Planning Commission of 100% Affordable Housing Project	4,820.00
<u>Select</u> Appeal to City Council of 100% Affordable Housing Project	4,735.00



OFFICE OF THE CITY ATTORNEY

411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802
(562) 570-2200
Facsimile: (562) 436-1579

ORD-28

DAWN MCINTOSH
City Attorney

January 17, 2023

GARY J. ANDERSON
Assistant City Attorney

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Sections 14.15.020, 14.15.030, 14.15.100, 14.15.110, all relating to parklets, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request on December 6, 2022, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

DAWN MCINTOSH, City Attorney

Vanessa S. Ibarra

By

VANESSA S. IBARRA
Deputy City Attorney

REDLINE CHAPTER 14.15 PARKLETS

14.15.020 General requirements.

- A. No person shall use or occupy the public walkway or other right-of-way with any obstruction for providing a parklet without first obtaining a written permit from the City through its Department of Public Works; provided, however, the permit shall be obtained from the City Council if (1) the proposed parklet will occupy more than ten percent (10%) of the available parking spaces within a two ~~-(2)~~ block radius, (2) is opposed as described in Section 14.15.030 of this Chapter, or (3) will be for uses other than dining, entertainment, seating, planting, landscaping, lighting, shade, bicycle parking and/or artwork. Permits are not transferable. This Chapter shall not be applicable to any activity performed pursuant to and permitted by other Chapters of this Code.
- B. Permits may only be issued to owners of property directly adjoining that portion of the public walkway and/or other right-of-way upon which the obstruction is to be located, or to lessees of such property with the consent of the property owner.
- C. Permits for providing a parklet may only be issued for obstructions in areas located outside the coastal zone, unless a separate Local Coastal Permit has been issued for such obstructions subject to the terms of this Chapter.
- D. Permits for providing a parklet may only be issued if the vehicular speed limit of the adjoining street is no more than twenty-five miles per hour (25 mph), unless (1) traffic calming improvement(s) are constructed as required by the City Engineer or Traffic Engineer or (2) a permanent curb extension is constructed per City standards, which complies with all sidewalk dining requirements of Chapter 14.14 (Occupation of Public Walkways) and is otherwise approved by the Director of Public Works. If a permanent curb extension is constructed in accordance with this Section, then the noticing requirements of Section 14.15.030 of this Chapter shall apply. -
- E. The permit may be suspended or canceled at any time at the discretion of the Director of Public Works, in the event that it is determined that the obstruction would interfere with street improvement activities, construction activities, cleaning efforts or other similar activities. The permit may also be suspended at any time, if, in the discretion of the City Engineer or Fire Marshal, the obstruction threatens the public health or safety.
- F. Permits may contain restrictions for hours of the day or days of the week during which the obstruction may occupy a public walkway and/or other right-of-way as determined by the Director of Public Works in his or her discretion.
- G. Permits shall be issued for an initial period not to exceed one (1) year. Upon expiration, a new permit must be obtained on the basis of a new application or a renewal permit must be obtained. Notwithstanding the above, such permits may be terminated by the City upon thirty (30) days' notice of the City Engineer.
- H. The Director of Public Works or designee is authorized to renew an existing permit in good standing for additional one (1) year periods provided either: (1) the applicant is not seeking any modification of the existing permit; or (2) any modification sought by either the applicant, the City Engineer or the Fire Marshal is deemed by the Director of Public Works to be a "minor modification of an existing permit", as defined in Section 14.15.010.
- I. No permit obtained under this Chapter shall excuse the permittee's obligation to obtain and comply with any other permit or license required by the City or any other regulatory agency.

14.15.030 Parklet permit—Application filing and process.

- A. A person desiring to occupy a public walkway and/or other right-of-way for providing a parklet shall file an application for such authorization with the City. The applications shall be on a form provided by the City or

accessible from the City's website and shall be signed by the permittee or his/her duly authorized agent. Any person signing the application as an agent shall furnish a written authorization executed by the permittee designating the person signing the permit as the permittee's duly authorized agent for such purpose. Such authorization will remain in full force and effect until revoked by a written document signed by the permittee and filed with the City. Such application shall be accompanied by plans satisfactory to the City, which show in detail the proposed obstruction and method of securing it to public property including public infrastructure. The application shall be filed under penalty of perjury. False statements therein will constitute grounds for denial, suspension or revocation as applicable. An incomplete application shall not be accepted for processing.

- ~~B. Every applicant for a parklet permit under this Chapter shall submit to the satisfaction of the Director of Public Works, before a permit is issued, written consents from the applicable community organizations and building associations providing evidence of the organizations' approval or lack of objections to the parklet installation, loss of a parking space(s) and/or impacts on dining operations.~~
- B. **Change in contents.** Any change in any information in the application which occurs after the application has been filed, and prior to City Council approval, if applicable, must be submitted in writing to the Director of Public Works within ten (10) calendar days after the change has occurred.
- C. **Review.** On receipt of a complete application, the Director of Public Works shall refer it to all concerned City departments for review. Such departments may file their comments and/or recommendations regarding the approval or denial of the permit with the Director of Public Works within thirty (30) days after the application is filed, except where circumstances beyond the control of the City justifiably delay such response.
- D. **Public Notice.** After filing an application, a public notice shall be posted in such form as the Department of Public Works shall prescribe for at least thirty (30) days. Failure of any member of the public to see the notice shall not invalidate an action taken on the request for a parklet permit. The applicant shall pay all costs of such notice in the manner prescribed by the City's Director of Public Works.

The notice shall:

1. Be posted in a prominent place visible from the street frontage immediately adjacent to the proposed premises.
2. Include the contact information for the Department of Public Works printed near the bottom of the sign with detailed instructions on the method for submitting written support or opposition for the parklet permit application.

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

- E. **Hearing.**
 1. Upon receipt of opposition as described in subsection (D) of Section 14.15.030, the Director of Public Works shall transmit the application, together with applicable comments and recommendations of the City departments, to the City Council for hearing and shall notify the applicant and persons submitting written support or opposition for the parklet permit application of the date, time and place of the hearing, which shall be held before the City Council on the first available hearing date.
 2. Prior to scheduling the hearing, the Director of Public Works shall give the applicant notice of the recommendations of the City departments.
 3. Where the Director of Public Works does not recommend approval of a permit, the Director of Public Works shall inform the applicant of the reason(s) for the denial in writing prior to the date the permit is scheduled for City Council consideration.
 4. In issuing the permit, the City Council may impose conditions relating to the operation of the parklet. Conditions may relate to the location, design and operations of the parklet. Conditions shall be listed on, or

attached to, the permit. The City Council shall give the permittee an opportunity to review any proposed conditions and the City Council shall consider the input of the permittee prior to imposing those conditions.

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

14.15.100 Revocation and nonrenewal.

- A. The Director of Public Works or City Engineer may revoke, refuse to issue or renew a parklet permit if such person has failed or refused:
 - 1. To pay any fees for permits, security deposits or charges as established by the City Council;
 - 2. To repair public improvements damaged as a result of the parklet occupancy of the public walkway or other right-of-way;
 - 3. To comply with the terms of this Chapter or of a permit granted hereunder.
- B. The Director of Public Works may also refuse to issue or renew a permit for providing a parklet in an area where such occupancy threatens the public health or safety, will be inconsistent with the public's use of the public walkway or other right-of-way, access needs or the use of any property located adjacent to the public walkway or other right-of-way.

14.15.110 Appeal—City Council.

Except for minor modifications to an existing permit, any other determination or modification to ~~an existing~~ permit made by the Director of Public Works or City Engineer may be appealed to the City Council within ten (10) calendar days from the date of such determination or modification in the manner provided in this Section.

Determinations or modifications to a permit made by the City Council shall be final.

- A. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Director of Public Works.
- B. If the appeal is made by a permittee ~~involving such permittee's existing permit or any person other than the permittee~~, such appeal shall be accompanied by an appeal deposit in an amount determined by the City Council by resolution and specified in the fee schedule. ~~For appeals made by any person other than the permittee, there shall be no required appeal deposit.~~
- C. The City Council shall conduct a hearing on the appeal or refer the matter to a Hearing Officer, pursuant to Chapter 2.93 of this Code, within sixty (60) business days from the date the completed request for appeal was received by the Director of Public Works, except where good cause exists to extend this period. The appellant shall be given at least ten (10) business days written notice of such hearing. The hearing and rules of evidence shall be conducted pursuant to Chapter 2.93 of this Code. The determination of the City Council on the appeal shall be final.

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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;

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

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

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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

RE: Requesting Updated Status (as of Jan 9, 2023) of proposed "Permanent Parklets for Belmont Shore BID and Belmont Pier Parklets & OAPs

Thursday, 1/12/2023 1:54pm

Good afternoon Ms. Cotton,

[NOTE Location added by Recipient]

The Public Works Permitting Team is actively working on the following applications:

1. Panama Joe's_5100 E 2nd Street – Corrections issued to applicant. (2nd St Belmont Shore)
2. Legends_5236 2nd Street - Corrections issued to applicant. (2nd St Belmont Shore)
3. Rances Chicago Pizza_5258 2nd Street- Corrections issued to applicant (2nd St Belmont Shore)
4. Sushi Ai_5260 2ND Street_ Corrections issued to applicant (2nd St Belmont Shore)
5. Nico's_5760 2ND Street_ Corrections issued to applicant (Naples)
6. Modica's_13 Linden Ave_ Corrections issued to applicant
7. Café Sevilla_140 Pine Ave – Corrections issued to applicant
8. Thai District_149 Linden Ave – corrections issued to applicant
9. Supply and Demand_2500 E. Anaheim Street – Corrections issued to applicant
10. Aroma Di Roma_4708 2nd Street – Corrections issued to applicant (2nd St Belmont Shore)
11. LB Beer Lab_516 Willow Street – Corrections issued to applicant
12. Open Sesame_5217 2nd Street – Corrections issued to applicant (2nd St Belmont Shore)
13. Taco Shore_5316 2nd Street - Corrections issued to applicant (2nd St Belmont Shore)
14. @Sushi_5372 2ND Street- Corrections issued to applicant (2nd St Belmont Shore)
15. Michael's on Naples_5616 2ND Street - Corrections issued to applicant (Naples)
16. Art Du Vin_2027 E 4th Street - Corrections issued to applicant
17. K.C. Branaghan's_5734 2ND Street - Corrections issued to applicant (Naples)
18. Breakfast Bar_70 Atlantic Ave - Corrections issued to applicant
19. La Tarantella_2120 E 4th Street - Corrections issued to applicant
20. George's Greek Café_5316 2ND Street- Corrections issued to applicant (2nd St Belmont Shore)
21. Vibes_76 12 62nd Place - Corrections issued to applicant (Peninsula)
22. LB Tap House-5110 2ND Street - Corrections issued to applicant (2nd St Belmont Shore)
23. Nicks on 2ND_4901 E. 2ND Street - Corrections issued to applicant (2nd St Belmont Shore)
24. Shannon's on Pine_209 Pine Ave - Corrections issued to applicant
25. Viento Y Agua_4007 E 4th Street - Corrections issued to applicant (District 3)
26. Village Road Pizza_4123 Norse Way - Corrections issued to applicant
27. Zuzu's Petals_801 E 3rd Street - Corrections issued to applicant
28. Poke Pub – 160 The Promenade North – Fees Pending
29. Belmont Brewing Company – 25 39th Place – Incomplete application (Belmont Pier)
30. Falcon – 1435 East Broadway - Incomplete application
31. Riley's – 5331 2nd Street – Incomplete application (2nd St Belmont Shore)
32. Dipiazza's – 5205 PCH - Incomplete application (District 3)

Manuel Salgado

Engineering Tech II

Public Works | Project Management Bureau

411 W. Ocean Blvd,

Office: 562.570.

**CITY OF LONG BEACH
CITIZEN'S ADVISORY COMMISSION ON DISABILITIES**

Kim Vuong, Chair
VACANT, Vice Chair
Dr. Gretchen Swanson, Secretary
Stephen Adams, Commissioner



Nubia Flores, Commissioner
Marissa Gonzalez, Commissioner
Jeremy Hill, Commissioner
Dr. Chris Karadjov, Commissioner
Dr. Nicholas Matthews, Commissioner

May 12, 2022

Mayor and Councilmembers
Tom Modica, City Manager
411 W Ocean Blvd
Long Beach, CA 90802

Re: Parklets that promote Mobility for All in the City of Long Beach

Almost immediately, the COVID pandemic took a toll on small businesses in Long Beach, including restaurants and bars. For many of these restaurants and bars to remain open, the City understandably created a temporary parklet program which allowed for outside dining in spaces this would normally not be permitted. We are relieved that our City is now beginning to return to normalcy, including inside gatherings, and moving forward economically.

Now is the time to re-evaluate the City-permitted temporary parklet program. CACoD has been made aware that many of the temporary parklets approved during the pandemic have unintentionally resulted in right-of-way restrictions, and at times inaccessibility, for our disability community. Although there have been attempts to enforce 5 feet of clear pedestrian access, this must be a temporary measure allowed during the pandemic. We know and have experienced along several corridors that the 5 feet of clear pedestrian access is not maintained nor enforced, being crossed and encroached by wait staff, restaurant customers and other members of the public, and sidewalk furniture without regard to pedestrians.

Our City includes residents and visitors who use a range of mobility devices, including manual and electric wheelchairs and scooters, walkers, walking canes, and all-white or red-tipped canes. Additionally, our residents and visitors with hearing loss require additional visual clues and support to navigate comfortably and safely.

With the impending sunset of the temporary parklets on June 30, 2022 and to sustain our economic viability – we urge the City and its departments to re-evaluate the parklets with our disability community in mind, and not after complaints are made. Additionally, we recommend a thoughtful accessibility review beyond ADA compliance before approving anymore future permanent parklets.

Lastly, we recommend that programs such as our City's Mobility Team and the Health Department's Walk-N-Roll Program design accommodating strategies to encourage *mobility for all*.

Thank you for your time and consideration.

Sincerely,

The Citizen's Advisory Commission on Disabilities (CACoD)

Cc: Eric Lopez, Director, Department of Public Works

Shareholders
Linda M. Dardarian
Laura L. Ho
James Kan
Andrew P. Lee



Of Counsel
Barry Goldstein
David Borgen
Morris J. Baller

June 13, 2022

Via U.S. Mail & E-Mail
Mayor@longbeach.gov¹

The Honorable Robert Garcia, Mayor
City Council Members
City of Long Beach
411 W. Ocean Blvd
Long Beach, CA 90802

Re: Sidewalk Access for Persons with Mobility Disabilities

Dear Mayor Garcia and Council Members:

We are Class Counsel in *Ochoa et al. v. City of Long Beach*, Case No. 2:14-cv-04307-DSF-FFM (C.D. Cal.). The *Ochoa* matter is a certified class action filed on behalf of persons with mobility disabilities who allege that the City's pedestrian right of way is not accessible as required by state and federal disability anti-discrimination laws. The parties reached a settlement in 2017 that has been entered as a binding order of the federal court, and has a thirty-year term (through 2047). The settlement requires the City to improve the accessibility of its curb ramps, sidewalks, and other pedestrian facilities over that thirty-year period. Class Counsel has a duty to ensure that the City meets its obligations under the settlement and to represent the interests of the certified class of persons with mobility disabilities in the *Ochoa* matter.

We write to address sidewalk access for persons with mobility disabilities as it relates to the City's Temporary and Permanent Parklet Programs. Members of the certified class have provided us with photographs showing tables, chairs, signs, planters, and even semi-permanent structures that reduce the clear width of the pedestrian right of way adjacent to parklets located on and around 2nd Street in the Belmont Shores neighborhood. Those photographs also show bar and restaurant patrons congregating on sidewalks near parklets. Such obstructions deny access to persons with mobility disabilities. The conditions depicted in the photographs are consistent with the May 12, 2022 correspondence sent to you by the Citizen's Advisory Committee on Disability stating that their members have experienced sidewalks adjacent to parklets in which "5 feet of clear pedestrian access is not maintained nor enforced" and is "being crossed and encroached by wait staff, restaurant customers and other members of the public, and sidewalk furniture without regard to pedestrians."

We understand that the City's Temporary Parklet Program is scheduled to sunset on June 30, 2022, and that the City is currently considering whether to extend the program to allow businesses to submit applications to make their parklets permanent. We take no position on

¹ This correspondence was also sent to individual Council Members at their district email addresses.

whether the City should extend the Temporary Parklet Program or allow permanent parklets. We emphasize, however, that the City has a binding, court-enforceable obligation to ensure the accessibility of its pedestrian rights of way. In addition to the requirements of state and federal disability anti-discrimination laws, the *Ochoa* settlement requires the City to “maintain the accessible features of its Pedestrian Facilities so that persons with Mobility Disabilities will be able to use such routes safely and independently.” Settlement Agreement and Release of Claims § 14.1.² Moreover, the *Ochoa* settlement requires the City to “draft and implement written policies and procedures which enforce the City’s current code requirements ensuring access to Pedestrian Facilities that are used by third parties, including but not limited to barriers caused by signage, tables and chairs, and other items installed or erected by third-parties.” *Id.* § 16.2.2. We trust that the City will meet its obligations under the *Ochoa* settlement.

Thank you for your consideration of the foregoing. To the extent Class Counsel may be of assistance to the City in addressing pedestrian right of way issues related to parklets, please do not hesitate to contact us.

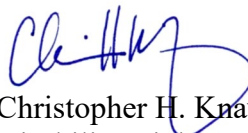
Respectfully,



Andrew P. Lee
Goldstein, Borgen, Dardarian & Ho



Meredith Weaver
Disability Rights Advocates



Christopher H. Knauf
Disability Rights Legal Center

APL/kbm

² A complete copy of the *Ochoa* settlement agreement is available at <https://gbdhlegal.com/wp-content/uploads/cases/Proposed-Settlement-Agreement.pdf>.

Long Beach settles Disability Act suit, will pay millions to repair sidewalks

By [Andrew Edwards](#) | aedwards@scng.com |

PUBLISHED: April 12, 2017 at 6:29 p.m. | UPDATED: September 1, 2017 at 12:05 p.m.

Long Beach will be required to spend roughly \$200 million over three decades to bring its curbs and sidewalks into compliance with Americans With Disability Act mandates, attorneys announced this week.

The announcement follows a U.S. Central District Court judge's Monday approval of a settlement between Long Beach's city government and disability-rights attorneys representing five plaintiffs who alleged in [a 2014 lawsuit](#) that a lack of curb ramps and other infrastructure deficiencies amounted to discrimination against people who need wheelchairs or other assistance to get around town.

The settlement, pending the City Council's approval, requires Long Beach officials to accomplish infrastructure upgrades throughout the entire city.

"Within five years, there will be a curb ramp at every location where a pedestrian crossing requires a curb," said Andrew Lee, a partner at the Oakland law firm of [Goldstein, Borgen, Dardarian & Ho](#) and one of the plaintiffs' attorneys.

Long Beach Public Works Director Craig Beck said city government has already hired a consultant to survey what exactly will need to be done to fulfill what he said both sides of the case now consider to be a valuable agreement.

Repair demands

The [Disability Rights Legal Center](#), which has offices in Los Angeles, and [Disability Rights Advocates](#), which has offices in Berkeley and New York City, also represented the five plaintiffs who sued over Long Beach's curbs and sidewalks.

The deal:

- Within five years, Long Beach officials must have all legally mandated curb ramps in place. This will require construction of some 4,500 new curb ramps.
- Between years six and 20 of the settlement deal, Long Beach officials must spend up to \$50 million to repair some 16,000 curb ramps that are damaged or otherwise inaccessible to disabled individuals.
- Before 30 years are out, city government must spend up to \$125 million to remedy broken sidewalks and crosswalks.
- City government must also set aside more than \$5 million during the first 10 years of the settlement period to make specific infrastructure fixes that disabled residents will be able to request.

Beck said City Hall already has the means to process such requests through its “rapid response program.”

Prior to the settlement, Public Works primarily dealt with access issues by responding to resident complaints, Beck said. Since 2015, however, Public Works has adopted a “complete streets” policy that requires workers to fix the likes of damaged gutters or curb ramps when they’re also handling a job on the adjacent street.

Scheduling repairs

The settlement gives city government up to two years to finish its survey of needed repairs. Once that is complete, Long Beach officials will be required to hold at least two public hearings and meet again with the plaintiffs and their attorneys to plan out how the work may be completed.

Long Beach’s infrastructure needs were at the forefront of city politics last year. [Voters approved Measure A](#), a 10-year sales tax increase, in June. Measure A increases Long Beach’s sales tax rate by one percentage point during its first six years and is projected to result in some \$384 million in tax revenue being directed to City Hall over its lifetime.

Mayor Robert Garcia [promised during the Measure A campaign](#) that much of taxpayers’ money would be spent on the likes of street and sidewalk repairs, although money has also been dedicating to restoring police and fire services.

City government has outlined how the [first \\$150 million](#) of Measure A revenues may be spent. Those plans include spending some \$90 million on street repairs, as well as about \$15 million to be dedicated for sidewalk fixes.

“There will be Measure A dollars that go into this, but the settlement won’t be dependent on Measure A,” Beck said.

News of the Long Beach settlement comes about two years after [Los Angeles agreed to a similar deal](#). L.A. officials agreed to spend more than \$1 billion over three decades to fix that city’s sidewalks.

Lee’s law firm and the Disability Rights Legal Center also worked on the Los Angeles case.