

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING CHAPTER 14.14, AND BY ADDING CHAPTER 14.15; ALL RELATING TO SIDEWALK DINING AND PARKLETS WITHIN THE CITY'S RIGHT-OF-WAY

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 14.14 of the Long Beach Municipal Code is amended and restated to read as follows:

Chapter 14.14

OCCUPATION OF PUBLIC WALKWAYS

14.14.010 Definitions.

A. "Dining" means the consumption of food or beverage.

B. "Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queens Way Landing boat basin.

C. "Existing permit" means a public walkways occupancy permit

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1 that has been issued by the City through its Department of Public Works.

2 D. "Existing permit in good standing" means a public walkways
3 occupancy permit that has been issued by the City and is compliant with all
4 laws and regulations, including the terms and conditions attached to that
5 permit.

6 E. "Existing permit in good standing" does not include a permit
7 the term of which has expired prior to the submission of a completed
8 application for renewal, including all required documentation.

9 F. "Minor modification of an existing permit" means a
10 reconfiguration of the area occupied or a change of equipment or fixtures
11 within the permit area with no change to the total square footage occupied,
12 unless the Director of Public Works deems such change to be negligible.

13 G. "Obstruction" means any temporary or permanent structure or
14 stationary object, including, but not limited to, signs, displays, barriers,
15 furniture, plants or plant containers, musical equipment, or merchandise
16 placed on a public walkway.

17 H. "Portable" means items capable of being carried or moved
18 about without the use of heavy moving equipment.

19 I. "Public property" means all City property, including "public
20 walkways", as defined in this Chapter, and public rights-of-way, and the
21 underlayment or foundation thereof, and public improvements thereon,
22 including landscaping on or in such property.

23 J. "Public walkways" means all or any portion of territory within
24 the City set apart and designated for the use of the public as a thoroughfare
25 for travel, including alley and sidewalk which is generally considered the
26 right-of-way between the curblin e and the adjacent property line intended
27 for use by pedestrians.

28 14.14.020 General requirements.

1 A. No person shall use or occupy the public walkway with any
2 obstruction for any purpose without first obtaining a written permit from the
3 City through its Department of Public Works. Permits are not transferable.
4 This Chapter shall not be applicable to any activity performed pursuant to
5 and permitted by other Chapters of this Code.

6 B. Permits may only be issued to owners of property directly
7 adjoining that portion of the public walkway upon which the obstruction is to
8 be located, or to lessees of such property with the consent of the property
9 owner.

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

16 D. Permits for occupancy may contain restrictions for hours of
17 the day or days of the week during which the obstruction may occupy a
18 public walkway as determined by the Director of Public Works in his or her
19 discretion.

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

25 F. The Director of Public Works or designee is authorized to
26 renew an existing permit in good standing for additional one (1) year
27 periods provided either: (1) the applicant is not seeking any modification of
28 the existing permit or (2) any modification sought by either the applicant, the

1 City Engineer or the Fire Marshal is deemed by the Director of Public Works
2 to be a "minor modification of an existing permit", as defined in Section
3 14.14.010.

4 G. No permit obtained under this Chapter shall excuse the
5 permittee's obligation to obtain and comply with any other permit or license
6 required by the City or any other regulatory agency.

7 14.14.030 Public walkways occupancy permit-Application.

8 A person desiring to occupy a public walkway shall file an application
9 for such authorization with the City. The applications shall be on a form
10 provided by the City or accessible from the City's website and shall be
11 signed by the permittee or his/her duly authorized agent. Any person signing
12 the application as an agent shall furnish a written authorization executed by
13 the permittee designating the person signing the permit as the permittee's
14 duly authorized agent for such purpose. Such authorization will remain in full
15 force and effect until revoked by a written document signed by the permittee
16 and filed with the City. Such application shall be accompanied by plans
17 satisfactory to the City, which show in detail the proposed obstruction and
18 method of securing it to public property including public infrastructure.

19 14.14.035 Fees, refunds and security deposits.

20 A. Every applicant for a public walkway occupancy permit under
21 this Chapter shall pay to the City, before a permit is issued, an annual fee
22 as adopted by the City Council by resolution and specified in the fee
23 schedule.

24 B. Every applicant for a public walkway occupancy permit under
25 this Chapter shall pay to the City a security deposit in an amount equivalent
26 to the permit fee or in such additional amount as determined by the City
27 Engineer. Such security deposit shall be applied to the cost of repairing any
28 damage to public property attributable to the permittee's use of public

1 property. Any balance shall be "rolled over" until the permit is terminated or
2 canceled, at which time the security deposit shall be applied to the cost of
3 restoring the public property to its prior condition and the remainder, if any,
4 refunded to the permittee.

5 C. In the event that any permit issued pursuant to this Chapter is
6 canceled because the permittee has violated a condition of his or her permit
7 or any regulation or law, or because the permittee no longer owns or
8 controls the property directly abutting the portion of the public walkway
9 upon which the obstruction is located, no portion of a permit fee paid by him
10 or her shall be refunded. If the permit is canceled by the City for any other
11 reason, the unearned portion of the permit fee shall be refunded.

12 14.14.040 Public walkway occupancy standards.

13 The public walkway occupancy standards for location, design and
14 operations shall comply with the City of Long Beach Sidewalk Dining and
15 Parklets Handbook to be made available by the City. The Director of Public
16 Works and/or City Engineer may require additional conditions for the location,
17 design and operation of the public walkway occupancy. In addition, any
18 public walkway occupancy subject to the terms of this Chapter shall conform to
19 all of the following requirements:

20 A. The minimum width of the public walkway shall be not less
21 than ten feet (10'), and such obstructions must permit at least five feet (5')
22 of unobstructed area of public walkway, unless otherwise approved by the
23 City Engineer on the basis of the considerations specified in this Chapter;

24 B. The obstruction shall not be located in a manner which
25 interferes with the flow of pedestrian or other traffic, or which creates a
26 potential threat to public safety, as determined by the City Engineer or Fire
27 Marshal;

28 C. The obstruction shall be kept in a good state of repair and in a

1 safe, sanitary and attractive condition;

2 D. Such obstruction shall be located in a manner which will not
3 interfere with visibility, vehicular or pedestrian mobility or access to City or
4 public utility facilities and will not compromise the safe use of any public
5 walkway or other right-of-way. Permitted locations shall be determined by
6 the City Engineer after consideration of the above and other relevant factors
7 in relation to the proposed site. The City Engineer may, in his or her
8 discretion, place additional conditions upon the issuance of such permit in
9 order to ensure the protection of the public health and welfare and public
10 property.

11 E. Minor modifications to these standards may be made by the
12 Director of Public Works to an existing permit in good standing.

13 14.14.045 Public walkways dining permits and entertainment permits.

14 A. No person may occupy or cause to be occupied any portion of
15 the public walkway for the purpose of providing dining or entertainment
16 except as permitted by this Chapter or as elsewhere provided for in this
17 Code.

18 B. Permits to occupy a portion of the public walkway for the
19 purposes of dining or entertainment may contain restrictions for hours of the
20 day or days of the week during which dining or entertainment may occur on
21 the public walkway as determined or modified by the Director of Public
22 Works in his or her discretion.

23 C. In addition to the other requirements set forth in this Chapter,
24 permits to occupy a portion of the public walkway for the purpose of dining
25 or entertainment shall conform to all of the following standards:

26 1. All dining or entertainment areas shall be defined by
27 placement of sturdy barriers, not to exceed forty-eight inches (48") in height,
28 as approved by the City Engineer.

1 2. All accessories to dining or entertainment uses such as
2 plants or planter boxes, umbrellas, podiums, menu boards, musical
3 equipment and heaters must be located inside the barrier.

4 D. All dining and entertainment which takes place on the public
5 walkway and public right-of-way shall conform to the requirements of
6 Chapter 8.80 of this Code regarding noise. Complaints regarding noise
7 shall be logged by City staff and may be the basis for suspension,
8 cancellation, or nonrenewal of a permit.

9 E. The permittee shall be responsible for cleaning the public
10 walkway occupied by a dining or entertainment area.

11 F. Canopy structures, including overhead structures and
12 windbreaks, are permitted, provided such structures are approved as part of
13 a public walkway occupancy permit and are consistent with any approved
14 master plan applicable to the installation and the design guidelines. Such
15 structures must comply with all applicable laws and regulations, including,
16 but not limited to, all fire, health, and building code regulations. Signage on
17 or adjacent to a canopy structure shall be limited to business identification
18 signs and shall be included in the calculation of total signage permitted
19 pursuant to Chapter 21.44 of this Code.

20 G. Temporary banners, not exceeding the height of the barrier
21 and attached to the barrier are permitted for a two (2) week period no more
22 than four (4) times per year.

23 H. Menu boards must be portable, located within the dining area,
24 and must not exceed five feet (5'), six inches (6") tall. Menu boards may be
25 either a single pole pedestal of painted metal or a board attached to the
26 inside of the barrier, parallel to the barrier.

27 I. A-frame signs, television monitors, and canopies are not
28 permitted at any location beyond the permit area.

1 14.14.055 Entertainment on the public right-of-way.

2 A. No person shall perform or cause to be performed any
3 entertainment activity on the public right-of-way without first obtaining a
4 public walkways occupancy permit which permits such entertainment.

5 B. In the downtown area, nonamplified outdoor entertainment is
6 permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight
7 each day. Amplified outdoor entertainment is permitted from five o'clock
8 (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday,
9 except if such day is a holiday. Amplified outdoor entertainment is permitted
10 from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on
11 Saturday, Sunday and holidays.

12 C. This Section shall not apply to any holder of a permit issued
13 pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this
14 Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of
15 this Code.

16 14.14.060 Public walkways occupancy permit - Failure to obtain.

17 A. Any person who occupies any public sidewalk with any
18 "obstruction," as defined herein, prior to obtaining a permit therefor, shall
19 pay a fee double the fee calculated by the method prescribed in this
20 Chapter.

21 B. The payment of the additional fee shall not relieve such
22 person from the obligations imposed by this Chapter, or from penalties
23 prescribed herein.

24 14.14.070 Indemnification of City.

25 A permit issued for public walkway occupancy under this Chapter shall
26 provide that the permittee shall defend, indemnify, save and keep the City, its
27 officers, agents and employees free and harmless from and against any and
28 all claims for injury, damage, loss, liability, cost and expense of any name or

1 nature whatsoever which the City, its officers, agents and employees may
2 suffer, sustain, incur, or pay out as a result of any and all actions, suits,
3 proceedings, claims and demands which may be brought, made or filed
4 against the City, its officers, agents and employees, by reason of or arising
5 out of, or in any manner connected with, any and all operations authorized or
6 permitted by the permit.

7 14.14.080 Insurance.

8 A. Concurrent with the issuance of the permit, the permittee shall
9 procure and maintain, at its cost, during the term of the permit insurance as
10 prescribed in regulations issued by the City Manager pursuant to Section
11 2.84.040.

12 B. Insurance required herein shall not be deemed to limit the
13 permittee's liability under this permit.

14 C. Permittee shall keep the insurance in full force and effect
15 during the term of any public walkway occupancy permit issued pursuant to
16 this Chapter. No permit granted pursuant to this Chapter shall be effective
17 until the permittee has complied with all insurance requirements.

18 D. Any public walkway occupancy permit so terminated may be
19 reinstated only upon application therefor submitted and approved by the
20 City and upon the payment of twenty dollars (\$20.00) per day for every day
21 on which no insurance was provided and also upon payment of all sums
22 due and unpaid to the City under the provisions of this Chapter, as well as
23 full indemnification during the uninsured period.

24 14.14.090 Default.

25 Upon the termination of the public walkway occupancy permit by
26 reason of the failure of the permittee to comply with the provisions of this
27 Chapter, the City may notify the permittee in writing of the default and specify
28 the time within which the default is to be remedied. If the permittee fails or

1 refuses to remedy the default within the period of time specified, the right of
2 permittee to use the public walkway shall cease and the City shall have the
3 right to remove the public walkway obstruction as provided under this
4 Chapter. The permittee shall reimburse the City for any expense incurred by
5 the City in removing the obstruction. Should the permittee continue to use the
6 public walkway after the permit has been terminated and should the City file
7 suit to restrain the use of the public walkway by permittee, the permittee shall
8 reimburse the City for its reasonable costs and expenses in connection
9 therewith, including a reasonable attorney fee.

10 14.14.100 Revocation and nonrenewal.

11 A. The Director of Public Works or City Engineer may revoke,
12 refuse to issue or renew a public walkway occupancy permit if such person
13 has failed or refused:

- 14 1. To pay any fees for permits, security deposits or
15 charges as established by the City Council;
- 16 2. To repair public improvements damaged as a result of
17 the occupancy of the public walkway;
- 18 3. To comply with the terms of this Chapter or of a permit
19 granted hereunder.

20 B. The Director of Public Works may also refuse to issue or
21 renew a permit for public walkway occupancy in an area where such
22 occupancy will be inconsistent with the public's use of the public walkway,
23 access needs or the use of any property located adjacent to the public
24 walkway.

25 14.14.110 Appeal - City Council.

26 Except for minor modifications to an existing permit, any other
27 determination or modification to an existing permit made by the Director of
28 Public Works or City Engineer may be appealed to the City Council within ten

1 (10) calendar days from the date of such determination or modification in the
2 manner provided in this Section.

3 A. The request for appeal shall be in writing, shall set forth the
4 specific ground(s) on which it is based and shall be submitted to the
5 Director of Public Works.

6 B. If the appeal is made by a permittee involving such permittee's
7 existing permit, such appeal shall be accompanied by an appeal deposit in
8 an amount determined by the City Council by resolution. For appeals made
9 by any person other than the permittee, there shall be no required appeal
10 deposit.

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

19 14.14.200 Public walkways occupancy permits for gym or fitness uses - pilot
20 project at 333 Pine Avenue.

21 In addition to the other requirements set forth in this Chapter, the
22 following conditions shall apply to the occupancy of public walkways, or
23 extensions thereof, for the purposes of providing for gym or fitness uses:

24 A. No person may occupy or cause to be occupied any portion of
25 the public walkways, or extensions thereof, for the purposes of gym or
26 fitness uses except as permitted by this Chapter or as elsewhere provided
27 for in this Code.

28 B. The occupancy of the public walkways, and extensions

1 thereof, for gym or fitness uses covered by this Chapter shall be limited to a
2 pilot project for the area located adjacent to 333 Pine Avenue, Long Beach,
3 California 90802.

4 C. The applicant for a public walkways occupancy permit for the
5 purposes of gym or fitness uses shall pay to the City, before a permit is
6 issued, an annual fee as adopted by the City Council by resolution and
7 specified in the fee schedule on file in the office of the City Engineer. If the
8 occupancy includes an extension of the public walkway, the annual fee
9 shall be based on a formula related to the square footage of public rights-of-
10 way occupied by permittee. The fee will be prorated for permits granted
11 mid-year.

12 D. Permits to occupy a portion of the public walkway, and
13 extensions thereof, for the purposes of gym and fitness uses may contain
14 restrictions for hours of the day or days of the week during which gym or
15 fitness uses may occur on the public walkway as determined the Director of
16 Public Works or City Engineer in their sole discretion.

17 E. Permits to occupy a portion of the public walkway, and
18 extensions thereof, for the purposes of gym or fitness uses shall conform to
19 all of the following standards:

20 1. All gym and fitness use areas shall be defined by
21 placement of sturdy barriers. Unless otherwise approved by the City
22 Engineer, such barriers must be affixed to the public walkway or extensions
23 thereof. The manner of affixing such barriers is subject to the prior approval
24 of the City Engineer;

25 2. All gym equipment and any other accessories to fitness
26 uses such as exercise equipment machines, stationary bicycles, storage
27 benches and tables, as well as any plants or planter boxes, umbrellas,
28 podiums, board displays, musical equipment and heaters must be located

1 inside the barrier; and

2 3. Any other standards, specifications, guidelines or
3 conditions as may be prescribed by the City Engineer in his/her sole
4 discretion.

5 F. All gym and fitness uses which take place on the public right-
6 of-way shall conform to the requirements of Chapter 8.80 of this Code
7 regarding noise. Complaints regarding noise shall be logged by City staff
8 and may be the basis for suspension, cancellation, or nonrenewal of a
9 permit.

10 G. The permittee shall be responsible for cleaning the public
11 walkway, or extensions thereof, occupied by a gym or fitness use area.

12 H. This Section shall remain in effect until revoked by the City
13 Council.

14
15 Section 2. Chapter 14.15 is added to the Long Beach Municipal Code to
16 read as follows:

17 Chapter 14.15

18 PARKLETS

19
20 14.15.010 Definitions.

21 A. "Dining" means the consumption of food or beverage.

22 B. "Downtown area" means the area bounded northerly by the
23 centerline of Tenth Street; westerly by the centerline of Maine Avenue north
24 of First Street, and the centerline of Golden Avenue south of First Street
25 and the centerline of Golden Shore and its southerly prolongation; easterly
26 by the centerline of Lime Avenue north of First Street and the centerline of
27 Alamitos Avenue and its southerly prolongation south of First Street;
28 southerly by the mean high tide line of the Pacific Ocean and its

1 prolongation across the entrance to Pacific Terrace Harbor and Queens
2 Way Landing boat basin.

3 C. "Existing permit" means a permit that has been issued by the
4 City through its Department of Public Works, or the City Council for uses
5 other than dining, entertainment, seating, planting, landscaping, lighting,
6 shade, bicycle parking and/or artwork.

7 D. "Existing permit in good standing" means a permit that has
8 been issued by the City and is compliant with all laws and regulations,
9 including the terms and conditions attached to that permit. "Existing permit
10 in good standing" does not include a permit the term of which has expired
11 prior to the submission of a completed application for renewal, including all
12 required documentation.

13 E. "Minor modification of an existing permit" means a
14 reconfiguration of the area occupied or a change of equipment or fixtures
15 within the permit area with no change to the total square footage occupied,
16 unless the Director of Public Works deems such change to be negligible.

17 F. "Obstruction" means any temporary or permanent structure or
18 stationary object, including, but not limited to, signs, displays, barriers,
19 furniture, plants or plant containers, musical equipment, or merchandise
20 placed on a public walkway or other right-of-way.

21 G. "Parklet" or "sidewalk extension parklet" means a small area
22 open to public use, utilizing one or more on-street parking spaces and may
23 include adjacent public walkways or other right-of-way, that may combine
24 elements including dining, entertainment, seating, planting, landscaping,
25 lighting, shade, bicycle parking and/or artwork.

26 H. "Permit" or "parklet permit" means a public walkways
27 occupancy with sidewalk extension parklet permit issued by the City
28 through its Department of Public Works.

1 I. “Portable” means items capable of being carried or moved
2 about without the use of heavy moving equipment.

3 J. “Public property” means all City property, including "public
4 walkways", as defined in this Chapter, and public rights-of-way, and the
5 underlayment or foundation thereof, and public improvements thereon,
6 including landscaping on or in such property.

7 K. “Public walkways” means all or any portion of territory within
8 the City set apart and designated for the use of the public as a thoroughfare
9 for travel, including alley and sidewalk which is generally considered the
10 right-of-way between the curblin e and the adjacent property line intended
11 for use by pedestrians.

12 14.15.020 General requirements.

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

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

27 C. Permits for providing a parklet may only be issued for
28 obstructions in areas located outside the coastal zone, unless a separate

1 Local Costal Permit has been issued for such obstructions subject to the
2 terms of this Chapter.

3 D. Permits for providing a parklet may only be issued if the
4 vehicular speed limit of the adjoining street is no more than twenty-five
5 miles per hour (25 mph).

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

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

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

21 H. The Director of Public Works or designee is authorized to
22 renew an existing permit in good standing for additional one (1) year
23 periods provided either: (1) the applicant is not seeking any modification of
24 the existing permit or (2) any modification sought by either the applicant, the
25 City Engineer or the Fire Marshal is deemed by the Director of Public Works
26 to be a "minor modification of an existing permit", as defined in Section
27 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 14.15.030 Parklet permit - Application.

4 A. A person desiring to occupy a public walkway and/or other
5 right-of-way for providing a parklet shall file an application for such
6 authorization with the City. The applications shall be on a form provided by
7 the City or accessible from the City's website and shall be signed by the
8 permittee or his/her duly authorized agent. Any person signing the
9 application as an agent shall furnish a written authorization executed by the
10 permittee designating the person signing the permit as the permittee's duly
11 authorized agent for such purpose. Such authorization will remain in full
12 force and effect until revoked by a written document signed by the permittee
13 and filed with the City. Such application shall be accompanied by plans
14 satisfactory to the City, which show in detail the proposed obstruction and
15 method of securing it to public property including public infrastructure.

16 B. Every applicant for a parklet permit under this Chapter shall
17 submit to the satisfaction of the Director of Public Works, before a permit is
18 issued, written consents from the applicable community organizations and
19 building associations providing evidence of the organizations' approval or
20 lack of objections to the parklet installation, loss of a parking space(s)
21 and/or impacts on dining operations.

22 14.15.035 Fees, refunds and security deposits.

23 A. Every applicant for a parklet permit under this Chapter shall
24 pay to the City, before a permit is issued, an annual fee as adopted by the
25 City Council by resolution and specified in the fee schedule.

26 B. Every applicant for a parklet permit under this Chapter shall
27 pay to the City a security deposit in an amount equivalent to the permit fee
28 or in such additional amount as determined by the City Engineer. Such

1 security deposit shall be applied to the cost of repairing any damage to
2 public property attributable to the permittee's use of public property. Any
3 balance shall be "rolled over" until the permit is terminated or canceled, at
4 which time the security deposit shall be applied to the cost of restoring the
5 public property to its prior condition and the remainder, if any, refunded to
6 the permittee.

7 C. In the event that any permit issued pursuant to this Chapter is
8 canceled because the permittee has violated a condition of his or her permit
9 or any regulation or law, or because the permittee no longer owns or
10 controls the property directly abutting the portion of the public walkway or
11 other right-of-way upon which the obstruction is located, no portion of a
12 permit fee paid by him or her shall be refunded. If the permit is canceled by
13 the City for any other reason, the unearned portion of the permit fee shall
14 be refunded.

15 14.15.040 Parklet standards.

16 The parklet standards for location, design and operations shall comply
17 with the City of Long Beach Sidewalk Dining and Parklets Handbook to be
18 made available by the City. The Director of Public Works and/or City
19 Engineer may require additional conditions for the location, design and
20 operation of the parklet. In addition, any parklet subject to the terms of this
21 Chapter shall conform to all of the following requirements:

22 A. The minimum width of the public walkway directly adjoining
23 the parklet shall be not less than five feet (5'), and such obstructions must
24 permit at least five feet (5') of unobstructed area of public walkway, unless
25 otherwise approved by the City Engineer on the basis of the considerations
26 specified in this Chapter;

27 B. The obstruction shall not be located in a manner which
28 interferes with the flow of pedestrian or other traffic, or which creates a

1 potential threat to public safety, as determined by the City Engineer or Fire
2 Marshal;

3 C. The obstruction shall be kept in a good state of repair and in a
4 safe, sanitary and attractive condition;

5 D. Such obstruction shall be located in a manner which will not
6 interfere with visibility, vehicular or pedestrian mobility or access to City or
7 public utility facilities and will not compromise the safe use of any public
8 walkway or other right-of-way. Permitted locations shall be determined by
9 the City Engineer after consideration of the above and other relevant factors
10 in relation to the proposed site. The City Engineer may, in his or her
11 discretion, place additional conditions upon the issuance of such permit in
12 order to ensure the protection of the public health and welfare and public
13 property.

14 E. Minor modifications to these standards may be made by the
15 Director of Public Works to an existing permit in good standing.

16 14.15.045 Parklet dining permits and entertainment permits.

17 A. No person may occupy or cause to be occupied any portion of
18 the public walkway or other right-of-way for the purpose of providing dining
19 or entertainment within a parklet except as permitted by this Chapter or as
20 elsewhere provided for in this Code.

21 B. Permits to occupy a portion of the public walkway or other
22 right-of-way for the purposes of dining or entertainment within a parklet may
23 contain restrictions for hours of the day or days of the week during which
24 dining or entertainment may occur within the parklet as determined or
25 modified by the Director of Public Works in his or her discretion.

26 C. In addition to the other requirements set forth in this Chapter,
27 permits to occupy a portion of the public walkway or other right-of-way for
28 the purpose of dining or entertainment within a parklet shall conform to all of

1 the following standards:

2 1. All dining or entertainment areas shall be defined by
3 placement of sturdy barriers, not to exceed forty-eight inches (48") in height,
4 as approved by the City Engineer.

5 2. All accessories to dining or entertainment uses such as
6 plants or planter boxes, umbrellas, podiums, menu boards, musical
7 equipment and heaters must be located inside the barrier.

8 D. All dining and entertainment which takes place on the public
9 walkway or other right-of-way within a parklet shall conform to the
10 requirements of Chapter 8.80 of this Code regarding noise. Complaints
11 regarding noise shall be logged by City staff and may be the basis for
12 suspension, cancellation, or nonrenewal of a permit.

13 E. The permittee shall be responsible for cleaning the public
14 walkway and other right-of-way occupied by a dining or entertainment area
15 within a parklet, as well as any public property adjacent to the parklet.

16 F. Canopy structures, including overhead structures and
17 windbreaks, are permitted, provided such structures are approved as part of
18 a parklet permit and are consistent with any approved master plan
19 applicable to the installation and the design guidelines. Such structures
20 must comply with all applicable laws and regulations, including, but not
21 limited to, all fire, health, and building code regulations. Signage on or
22 adjacent to a canopy structure shall be limited to business identification
23 signs and shall be included in the calculation of total signage permitted
24 pursuant to Chapter 21.44 of this Code.

25 G. Temporary banners, not exceeding the height of the barrier
26 and attached to the barrier facing the public sidewalk are permitted for a
27 two (2) week period no more than four (4) times per year. Banners shall not
28 be attached to the street facing sides of a parklet.

1 H. Menu boards must be portable, located within the dining area,
2 and must not exceed five feet (5'), six inches (6") tall. Menu boards may be
3 either a single pole pedestal of painted metal or a board attached to the
4 inside of the barrier, parallel to the barrier.

5 I. A-frame signs, television monitors, and canopies are not
6 permitted at any location beyond the permit area.

7 14.15.055 Entertainment on the public right-of-way.

8 A. No person shall perform or cause to be performed any
9 entertainment activity on the public right-of-way without first obtaining a
10 parklet permit which permits such entertainment.

11 B. In the downtown area, nonamplified outdoor entertainment is
12 permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight
13 each day. Amplified outdoor entertainment is permitted from five o'clock
14 (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday,
15 except if such day is a holiday. Amplified outdoor entertainment is permitted
16 from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on
17 Saturday, Sunday and holidays.

18 C. This Section shall not apply to any holder of a permit issued
19 pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this
20 Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of
21 this Code.

22 14.15.060 Parklet permit - Failure to obtain.

23 A. Any person who occupies any public sidewalk or other right-
24 of-way with any "obstruction," as defined herein, prior to obtaining a permit
25 therefor, shall pay a fee double the fee calculated by the method prescribed
26 in this Chapter.

27 B. The payment of the additional fee shall not relieve such
28 person from the obligations imposed by this Chapter, or from penalties

1 prescribed herein.

2 14.15.070 Indemnification of City.

3 A parklet permit issued under this Chapter shall provide that the
4 permittee shall defend, indemnify, save and keep the City, its officers, agents
5 and employees free and harmless from and against any and all claims for
6 injury, damage, loss, liability, cost and expense of any name or nature
7 whatsoever which the City, its officers, agents and employees may suffer,
8 sustain, incur, or pay out as a result of any and all actions, suits, proceedings,
9 claims and demands which may be brought, made or filed against the City, its
10 officers, agents and employees, by reason of or arising out of, or in any
11 manner connected with, any and all operations authorized or permitted by the
12 permit.

13 14.15.080 Insurance.

14 A. Concurrent with the issuance of the permit, the permittee shall
15 procure and maintain, at its cost, during the term of the permit insurance as
16 prescribed in regulations issued by the City Manager pursuant to Section
17 2.84.040.

18 B. Insurance required herein shall not be deemed to limit the
19 permittee's liability under this permit.

20 C. Permittee shall keep the insurance in full force and effect
21 during the term of any parklet permit issued pursuant to this Chapter. No
22 permit granted pursuant to this Chapter shall be effective until the permittee
23 has complied with all insurance requirements.

24 D. Any parklet permit so terminated may be reinstated only upon
25 application therefor submitted and approved by the City and upon the
26 payment of twenty dollars (\$20.00) per day for every day on which no
27 insurance was provided and also upon payment of all sums due and unpaid
28 to the City under the provisions of this Chapter, as well as full

1 indemnification during the uninsured period.

2 14.15.090 Default.

3 Upon the termination of the parklet permit by reason of the failure of
4 the permittee to comply with the provisions of this Chapter, the City may notify
5 the permittee in writing of the default and specify the time within which the
6 default is to be remedied. If the permittee fails or refuses to remedy the
7 default within the period of time specified, the right of permittee to use the
8 public walkway or other right-of-way shall cease and the City shall have the
9 right to remove the public walkway or other right-of-way obstruction as
10 provided under this Chapter. The permittee shall reimburse the City for any
11 expense incurred by the City in removing the obstruction. Should the
12 permittee continue to use the public walkway or other right-of-way after the
13 permit has been terminated and should the City file suit to restrain the use of
14 the public walkway or other right-of-way by permittee, the permittee shall
15 reimburse the City for its reasonable costs and expenses in connection
16 therewith, including a reasonable attorney fee.

17 14.15.100 Revocation and nonrenewal.

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

- 21 1. To pay any fees for permits, security deposits or
22 charges as established by the City Council;
- 23 2. To repair public improvements damaged as a result of
24 the parklet occupancy of the public walkway or other right-of-way;
- 25 3. To comply with the terms of this Chapter or of a permit
26 granted hereunder.

27 B. The Director of Public Works may also refuse to issue or
28 renew a permit for providing a parklet in an area where such occupancy will

1 be inconsistent with the public's use of the public walkway or other right-of-
2 way, access needs or the use of any property located adjacent to the public
3 walkway or other right-of-way.

4 14.15.110 Appeal - City Council.

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

10 A. The request for appeal shall be in writing, shall set forth the
11 specific ground(s) on which it is based and shall be submitted to the
12 Director of Public Works.

13 B. If the appeal is made by a permittee involving such permittee's
14 existing permit, such appeal shall be accompanied by an appeal deposit in
15 an amount determined by the City Council by resolution. For appeals made
16 by any person other than the permittee, there shall be no required appeal
17 deposit.

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

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

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

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2018, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor