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Long Beach, California

ORD-24

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December 11, 2018

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance 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, 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 November 13, 2018, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

LINDA T. VU  
Deputy City Attorney

LTV:bg A18-03101  
00956822.docx

## REDLINE

### CHAPTER 14.14 - OCCUPATION OF PUBLIC WALKWAYS

#### 14.14.010 - Definitions.

~~"Belmont Shore area" means both sides of Second Street from Livingston Drive to Bay Shore Avenue.~~

"Dining" means the consumption of food or beverage.

"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.

"Existing permit" means a public walkways occupancy permit that has been issued by the City Council through its Department of Public Works.

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

~~"Minor modification of an existing permit" means a reconfiguration of the area occupied or a change of equipment or fixtures within the permit area with no change to the total square footage occupied, a change in the use of the area occupied which otherwise complies with all applicable laws and regulations, or a change in the materials or equipment used within the area occupied. "Minor modification of an existing permit" does not include any increase to the total square footage occupied, unless the Director of Public Works deems such change to be negligible.~~

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

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

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

~~"Public walkways" means all or any portion of territory within the City set apart and designated for the use of the public as a thoroughfare for travel, and including alley and the sidewalks, the center and the side plots thereof which is generally considered the right-of-way between the curblin and the adjacent property line intended for use by pedestrians.~~

#### 14.14.020 - General requirements.

- A. No person shall use or occupy the public walkway with any obstruction for any purpose without first obtaining a written permit from the City Council ~~of through its Department of Public Works~~. 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 upon which the obstruction is to be located, or to lessees of such property with the consent of the property owner.

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- C. 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.
- D. Permits for occupancy may contain restrictions for hours of the day or days of the week during which the obstruction may occupy a public walkway as determined by the ~~City Council, or as determined or modified by the~~ Director of Public Works in his or her discretion ~~with respect to a new permit or an existing permit for public walkway occupancy in the Belmont Shore area only.~~
- E. 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.
- F. 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 14.14.010.
- G. 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.

14.14.030 - Public walkways occupancy permit—Application.

A person desiring to occupy a public walkway shall file an application for such authorization with the ~~City Engineer.~~ 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 Engineer.~~ Such application shall be accompanied by plans satisfactory to the ~~City Engineer,~~ which show in detail the proposed obstruction and method of securing it to public property including public infrastructure.

14.14.035 - Fees, refunds and security deposits.

- A. Every applicant for a public walkway occupancy permit under this Chapter shall pay to the City, before a permit is issued, an annual fee as adopted by the City Council by resolution and specified in the fee schedule ~~on file in the office of the City Engineer.~~
- B. Every applicant for a public walkway occupancy permit under this Chapter shall pay to the City a security deposit in an amount equivalent to ~~one (1) year's the permit fee~~ or in such additional amount as determined by the ~~City Council~~ Engineer. Such security deposit shall be applied to the cost of repairing any damage to public property attributable to the permittee's use of public property. Any balance shall be "rolled over" ~~to apply toward the following year's security deposit until the permit is terminated or canceled, at which time the security deposit shall be applied to the cost of restoring the public property to its prior condition and the remainder, if any, refunded to the permittee.~~
- C. In the event that any permit issued pursuant to this Chapter is canceled because the permittee has violated a condition of his or her permit or any regulation or law, or because the permittee no longer owns or controls the property directly abutting the portion of the public walkway upon which the obstruction is located, no portion of a permit fee paid by him or her shall be refunded. If the permit is canceled by the City for any other reason, the unearned portion of the permit fee shall be refunded.

14.14.040 - Public walkway occupancy standards.

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

- A. The minimum width of the public walkway shall be not less than ten feet (10'), and such obstructions must permit at least five feet (5') of unobstructed area of public walkway, unless otherwise approved by the City Council Engineer on the basis of the considerations specified in this Chapter;
- B. The obstruction shall not be located in a manner which interferes with the flow of pedestrian or other traffic, or which creates a potential threat to public safety, as determined by the City Engineer or Fire Marshal;
- ~~C. The maximum height of any such obstruction shall be six feet (6') unless otherwise approved by the City Council on the basis of considerations specified in this Chapter and all such obstructions shall be entirely portable except as specifically permitted by the City Engineer under Section 14.14.045;~~
- DC. The obstruction shall be kept in a good state of repair and in a safe, sanitary and attractive condition;
- ~~E. The obstruction may not be located within the forty-five (45) degree line of sight triangle adjacent to street, alley or driveways unless otherwise approved by the City Council on the basis of considerations specified in this Chapter, but in no case extending beyond that portion of the permittee's property which abuts the public right-of-way;~~
- FD. Such obstruction shall be located in a manner which will not interfere with visibility, vehicular or pedestrian mobility or access to City or public utility facilities and will not compromise the safe use of any public walkway or other right-of-way. Permitted locations shall be determined by the City Council Engineer after consideration of the above and other relevant factors in relation to the proposed site. The City Council Engineer may, in its his or her discretion, place additional conditions upon the issuance of such permit in order to ensure the protection of the public health and welfare and public property.

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

14.14.045 - Public walkways dining permits and entertainment permits.

- A. No person may occupy or cause to be occupied any portion of the public walkway for the purpose of providing dining or entertainment except as permitted by this Chapter or as elsewhere provided for in this Code.
- B. Permits to occupy a portion of the public walkway for the purposes of dining or entertainment may contain restrictions for hours of the day or days of the week during which dining or entertainment may occur on the public walkway ~~as determined by the City Council, or as determined or modified by the Director of Public Works in his or her discretion with respect to an existing permit in good standing for public walkway occupancy in the Belmont Shore area only.~~
- C. In addition to the other requirements set forth in this Chapter, permits to occupy a portion of the public walkway for the purpose of dining or entertainment shall conform to all of the following standards:
  - 1. All dining or entertainment areas shall be defined by placement of sturdy barriers, not to exceed forty-eight inches (48") in height, as approved by the City Engineer.

~~Except as approved by the City Engineer and the Fire Marshal, such barriers shall be portable. Such barriers may only be affixed to public property with the prior approval or direction of the City Engineer;~~

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2. All accessories to dining or entertainment uses such as plants or planter boxes, umbrellas, podiums, menu boards, musical equipment and heaters must be located inside the barrier.
- D. All dining and entertainment which takes place on the public walkway and public right-of-way shall conform to the requirements of Chapter 8.80 of this Code regarding noise. Complaints regarding noise shall be logged by City staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.
- E. The permittee shall be responsible for cleaning the public walkway occupied by a dining or entertainment area.

~~14.14.050 - Public walkway occupancy permits - Downtown area.~~

~~In addition to the other requirements set forth in this Chapter, the following standards for public walkway occupancy and for public walkway dining and entertainment areas apply in the downtown area:~~

- ~~A~~F. Canopy structures, including overhead structures and windbreaks, are permitted, provided such structures are approved as part of a public walkway occupancy permit and are consistent with limitations imposed by the Redevelopment Agency as part of an approved any approved master plan applicable to the installation and the or design guidelines. Such structures must comply with all applicable laws and regulations, including, but not limited to, all fire, health, and building code regulations, ~~and shall be a medium-toned beige or shall match the color of the adjacent building.~~ Signage on or adjacent to a canopy structure shall be limited to business identification signs and shall be included in the calculation of total signage permitted pursuant to Chapter 21.44 of this Code.
- ~~B~~. ~~Unless otherwise approved by the City Engineer, barriers must be affixed to the sidewalk and building structure or firmly fastened and supported on the sidewalk. The manner of affixing such barriers is subject to the prior approval of the City Engineer.~~
- ~~C~~G. Temporary banners, not exceeding the height of the barrier and attached to the barrier are permitted for a two (2) week period no more than four (4) times per year.
- ~~D~~H. Menu boards must be portable, located within the dining area, and must not exceed five feet (5'), six inches (6") tall. Menu boards may be either a single pole pedestal of painted metal or a board attached to the inside of the barrier, parallel to the barrier.
- ~~E~~I. A-frame signs, television monitors, and canopies are not permitted at any location beyond the permit area on the public walkway.

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

- A. No person shall perform or cause to be performed any entertainment activity on the public right-of-way without first obtaining a public walkways occupancy permit which permits such entertainment.
- B. In the downtown area, nonamplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight each day. Amplified outdoor entertainment is permitted from five o'clock (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday, except if such day is a holiday. Amplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on Saturday, Sunday and holidays.
- C. This Section shall not apply to any holder of a permit issued pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of this Code.

14.14.060 - Public walkways occupancy permit - Failure to obtain.

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

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

14.14.070 - Indemnification of City.

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

14.14.080 - Insurance.

- A. Concurrent with the issuance of the permit, the permittee shall procure and maintain, at its cost, during the term of the permit insurance as prescribed in regulations issued by the City Manager pursuant to Section 2.84.040.
- B. Insurance required herein shall not be deemed to limit the permittee's liability under this permit.
- C. Permittee shall keep the insurance in full force and effect during the term of any public walkway occupancy permit issued pursuant to this Chapter. No permit granted pursuant to this Chapter shall be effective until the permittee has complied with all insurance requirements.
- D. Any public walkway occupancy permit so terminated may be reinstated only upon application therefor submitted and approved by the City and upon the payment of twenty dollars (\$20.00) per day for every day on which no insurance was provided and also upon payment of all sums due and unpaid to the City under the provisions of this Chapter, as well as full indemnification during the uninsured period.

14.14.090 - Default.

Upon the termination of the public walkway occupancy permit by reason of the failure of the permittee to comply with the provisions of this Chapter, the City may notify the permittee in writing of the default and specify the time within which the default is to be remedied. If the permittee fails or refuses to remedy the default within the period of time specified, the right of permittee to use the public walkway shall cease and the City shall have the right to remove the public walkway obstruction as provided under this Chapter. The permittee shall reimburse the City for any expense incurred by the City in removing the obstruction. Should the permittee continue to use the public walkway after the permit has been terminated and should the City file suit to restrain the use of the public walkway by permittee, the permittee shall reimburse the City for its reasonable costs and expenses in connection therewith, including a reasonable Attorney fee.

14.14.100 - Revocation and nonrenewal.

- A. ~~The City Council~~Director of Public Works or City Engineer may revoke, refuse to issue or renew a public walkway occupancy 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 occupancy of the public walkway;
  - 3. To comply with the terms of this Chapter or of a permit granted hereunder.
- B. ~~The City Council~~Director of Public Works may also refuse to issue or renew a permit for public walkway occupancy in an area where such occupancy will be inconsistent with the public's use of the public walkway, access needs or the use of any property located adjacent to the public walkway.

14.14.110 - Appeal—City Council.

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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.

- 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, such appeal shall be accompanied by an appeal deposit in an amount determined by the City Council by resolution. 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.

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

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

- A. No person may occupy or cause to be occupied any portion of the public walkways, or extensions thereof, for the purposes of gym or fitness uses except as permitted by this Chapter or as elsewhere provided for in this Code.
- B. The occupancy of the public walkways, and extensions thereof, for gym or fitness uses covered by this Chapter shall be limited to a pilot project for the area located adjacent to 333 Pine Avenue, Long Beach, California 90802.
- C. The applicant for a public walkways occupancy permit for the purposes of gym or fitness uses shall pay to the City, before a permit is issued, an annual fee as adopted by the City Council by resolution and specified in the fee schedule on file in the office of the City Engineer. If the occupancy includes an extension of the public walkway, the annual fee shall be based on a formula related to the square footage of public rights-of-way occupied by permittee. The fee will be prorated for permits granted mid-year.
- D. Permits to occupy a portion of the public walkway, and extensions thereof, for the purposes of gym and fitness uses may contain restrictions for hours of the day or days of the week during which gym or fitness uses may occur on the public walkway as determined the Director of Public Works or City Engineer in their sole discretion.
- E. Permits to occupy a portion of the public walkway, and extensions thereof, for the purposes of gym or fitness uses shall conform to all of the following standards:
  - 1. All gym and fitness use areas shall be defined by placement of sturdy barriers. Unless otherwise approved by the City Engineer, such barriers must be affixed to the public walkway or extensions thereof. The manner of affixing such barriers is subject to the prior approval of the City Engineer;
  - 2. All gym equipment and any other accessories to fitness uses such as exercise equipment machines, stationary bicycles, storage benches and tables, as well as any plants or planter boxes, umbrellas, podiums, board displays, musical equipment and heaters must be located inside the barrier; and

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3. Any other standards, specifications, guidelines or conditions as may be prescribed by the City Engineer in his/her sole discretion.
- F. All gym and fitness uses which take place on the public right-of-way shall conform to the requirements of Chapter 8.80 of this Code regarding noise. Complaints regarding noise shall be logged by City staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.
- G. The permittee shall be responsible for cleaning the public walkway, or extensions thereof, occupied by a gym or fitness use area.
- H. This Section shall remain in effect until revoked by the City Council.



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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 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

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 curblines 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 curblineline 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  
Long 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