



Superior Court of California, County of San Mateo
Hall of Justice and Records
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Redwood City, CA 94063-1655

NEAL TANIGUCHI
COURT EXECUTIVE OFFICER
CLERK & JURY COMMISSIONER

(650) 261-5066
www.sanmatcocourt.org

July 25, 2022

City Council
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

Re: Grand Jury Report: "Waiter! There's a Car in My Soup!"

Dear Councilmembers:

The 2021-2022 San Mateo County Civil Grand Jury filed the above-titled report on July 25, 2022, which contains findings and recommendations pertaining to your agency. Your agency must respond, within 90 days, to the Hon. Amarra A. Lee. Your agency's response is due no later than October 25, 2022. '22 JUL 27 1:25PM

There are several requirements for **the content** of your response. The response should indicate that it was approved by your governing body at a public meeting. In addition, please be aware that your agency is expected to adhere to the wording, as instructed below, when responding to the findings and recommendations of the Grand Jury report.

For each Grand Jury finding, your agency **must indicate** one of the following:

1. The respondent **agrees** with the finding; or
2. The respondent **disagrees wholly or partially with the finding**, specifying the portion of the finding that is disputed and including an explanation of the reasons therefor.

For each Grand Jury recommendation, your agency **must indicate** one of the following actions:

1. The recommendation **has been implemented**, with a summary of the implemented action;
2. The recommendation **has not yet been implemented**, but will be implemented in the future, with an **estimated date** for implementation;
3. The recommendation **requires further analysis**, with an explanation and the scope and parameters of an analysis or study, and an estimated date (**no later than six months from the publication date of the report**) for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable; or
4. The **recommendation will not be implemented** because it is not warranted or reasonable, with an explanation therefor.

Kindly submit your responses in ALL the following formats.

1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office:

- **Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address, and mail to:**

**Hon. Amarra A. Lee
Judge of the Superior Court
c/o Jenarda Dubois
Civil Grand Jury Coordinator
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655.**

2. Responses to be placed at the Grand Jury website:

- **Scan response and send by e-mail to: grandjury@sanmateocourt.org. (Insert agency name at the top of your response if it is not indicated.)**

3. Responses to be placed with the clerk of your agency:

- **File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.**

The 2021-22 Grand Jury foreperson is available to clarify the recommendations of the Grand Jury report until August 15, 2022. To reach the foreperson, please contact Jenarda Dubois, Civil Grand Jury Coordinator, at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact David Silberman, Chief Deputy County Counsel, at (650) 363-4749.

Very truly yours,



Neal Taniguchi
Court Executive Officer

Enclosure

cc: Hon. Amarra A. Lee
David Silberman



WAITER! THERE'S A CAR IN MY SOUP!

Release Date: July 25, 2022

ISSUE

How have cities in San Mateo County adapted and learned from the outdoor dining emergency measures they adopted during the COVID-19 pandemic, and how do they plan to apply those experiences to their future outdoor dining policies?

SUMMARY

Prior to the COVID-19 pandemic, outdoor dining in San Mateo County was limited to sidewalk cafes and outdoor dining areas on restaurant property. Some cities experimented with early "parklet" programs that placed dining areas in some street parking. At times, city events such as farmers' markets and festivals also provided patrons with outdoor dining opportunities.

In response to COVID-19, the State of California issued a series of emergency orders limiting business activities and ordering residents to shelter in place. When businesses were allowed to reopen, some cities adopted temporary regulations that fast-tracked permits for outdoor dining. Cities discovered that outdoor dining kept many restaurants in business, while patrons embraced outdoor dining. In some cities, the municipal experience with outdoor dining policies is expected to be reflected in permanent policy changes.

The Grand Jury investigated several cities' temporary outdoor dining policies. We discovered that some cities conducted no documented inspections of their outdoor dining facilities. Where inspections were performed, corrections of deficiencies were generally not documented.

Temporary ordinances are relatively easy for cities to adopt because they require little public input. In contrast, before permanent policies can be adopted as part of cities' zoning codes, they must go through a time-consuming series of steps that allow the public to weigh in on the process. As of June 7, 2022, the City of San Mateo was the only city to have completed the process and transitioned away from emergency outdoor dining regulations to permanent policies. Most of the cities we interviewed had not yet begun the process.

The Grand Jury recommends that city councils of the subject cities:

1. determine the extent to which they intend to enforce their current outdoor dining regulations;
and
2. determine whether they wish to adopt permanent outdoor dining regulations.

GLOSSARY

ADA - The Federal Americans with Disabilities Act (ADA) protects disabled people from discrimination, including by requiring that public accommodations be free from architectural barriers that make them inaccessible for use by disabled individuals.

Encroachment – An encroachment exists when a portion of the public right of way is taken for private use, such as when an eating establishment uses sidewalk or street parking space for table service.

Parklet - A space, typically converted from a public parking space, that extends from the sidewalk into the street and is set aside for amenities or commercial activity such as outdoor dining, is known as a parklet.

BACKGROUND

Throughout San Mateo County, cities responded to the 2020 COVID-19 pandemic by embracing the concept of outdoor dining both to help restaurants stay in business and to provide a safe environment for diners to eat and socialize. These efforts took advantage of the County's generally mild weather and its several attractive downtown areas. Early in 2020, County emergency health orders prohibited indoor dining, compelling restaurants to rely on delivery and takeout sales, and threatening their economic viability. Nationwide, 36% of accommodation and food services establishments, employing 5.7 million workers, experienced government-mandated closures.¹ In addition to expanding their takeout and delivery options, restaurants in the County sought to move operations outdoors. To support local restaurants, cities adopted temporary changes to municipal codes, permit requirements, and other regulations to enable expanded outdoor dining facilities. Over time, as the utility and popularity of these temporary arrangements became evident, cities began to examine whether their temporary policies should be permanent.

Types of Outdoor Dining

Whether on privately-owned restaurant patios or in spaces shared with the public's right-of-way, outdoor dining is enjoyed in many forms throughout cities around the world. Dining "*al fresco*" or "*all'aperto*" adds an element of entertainment to eating out at a restaurant. Open air dining allows families to enjoy eating together in a more informal and relaxed atmosphere. Not only does eating outdoors offer diners a special ambiance, but it also allows restaurants to increase their seating, serve more meals and raise their revenue.

When cities are incorporated, they generally set aside some of the available land as a right-of-way for public use. The right-of-way is used for automobile traffic, parking, bike lanes, sidewalks, and other pedestrian areas. When cities permit outdoor dining spaces to extend into the public right-of-way, food vendors can operate in public travel easements such as sidewalks

¹ "Impact of the Coronavirus Pandemic on Businesses and Employees by Industry." U.S. Bureau of Labor Statistics, Spotlight on Statistics, July 2021

and streets. Examples of dining opportunities within the public right-of-way include sidewalk cafes, parklets, festivals, street vendors, food trucks, and farmers markets. Belden Place in San Francisco, Redwood City's theater district, Burlingame Avenue, and B Street in the City of San Mateo have all taken cues from the sidewalk cafes of Europe by extending their restaurants into public spaces. These city uses of public space for outdoor dining have dramatically supplemented prior outdoor dining configurations provided by some restaurants, such as rooftop cafes, beer gardens, and patio or courtyard tables.

The outdoor dining atmosphere seems to resonate well with customers. Restaurant parklets and other outdoor dining formats have become a common sight in downtowns throughout the County since 2020 through experimental temporary changes to local outdoor dining regulations.

Outdoor Dining in San Mateo County

Outdoor dining has existed in San Mateo County for many years. For example, cities experimented with closing streets to automobile traffic, extending restaurant seating into public spaces, and widening sidewalks to make more room for sidewalk cafes. San Carlos, Menlo Park, and Redwood City were among the first to accept the parklet concept as a matter of public policy, converting a limited number of parking spaces to outdoor dining patios on an experimental basis. Redwood City, San Mateo, and Burlingame all had significant projects prior to 2020. Redwood City created Theatre Way, a pedestrian-friendly, restaurant-friendly corridor by closing a section of Middlefield Road, creating dedicated outdoor dining areas in the street. San Mateo helped to create an outdoor mall lined with outdoor dining running parallel to B Street, connecting theaters to parking garages. As far back as May 2013, Burlingame eliminated angled parking on Burlingame Avenue in order to widen sidewalks for a variety of sidewalk cafes.² In July 2015, San Carlos approved an 18-month pilot program for outdoor dining on Laurel Street.

² Bay Area News Group, "Burlingame Avenue undergoes short-term pain for long-term gain," East Bay Times, June 10, 2013

A Brief History of Parklets

San Francisco is credited with creating the first “parklet” and coining the term; it was a parking space that was repurposed into a small park-like space for public recreation – not for private business. In 2005, an urban activist group known as Rebar fed coins into a parking meter, unrolled some grass turf, and added a potted plant to create an urban “park.” Since then, cities gradually began to capitalize on the idea to include outdoor dining patios that expand business opportunities for eating establishments and attract more diners to downtown areas.



The First Parklet

Source: https://nacto.org/docs/usdg/parklets_tiny_parks_with_big_impacts_for_city_streets_gould.pdf

City Ordinances

City regulations, such as those governing outdoor dining, are generally created through city ordinances that are codified in the municipal code. California law mandates how such ordinances are adopted. First, the city staff drafts a proposal with input from various boards, commissions and committees as appropriate. The city council then solicits public input from specialized committees, by written or emailed comment, as well as public input

at a public meeting of the city council that approves the ordinance.³ The following diagram illustrates the process by which a municipal zoning ordinance is adopted.

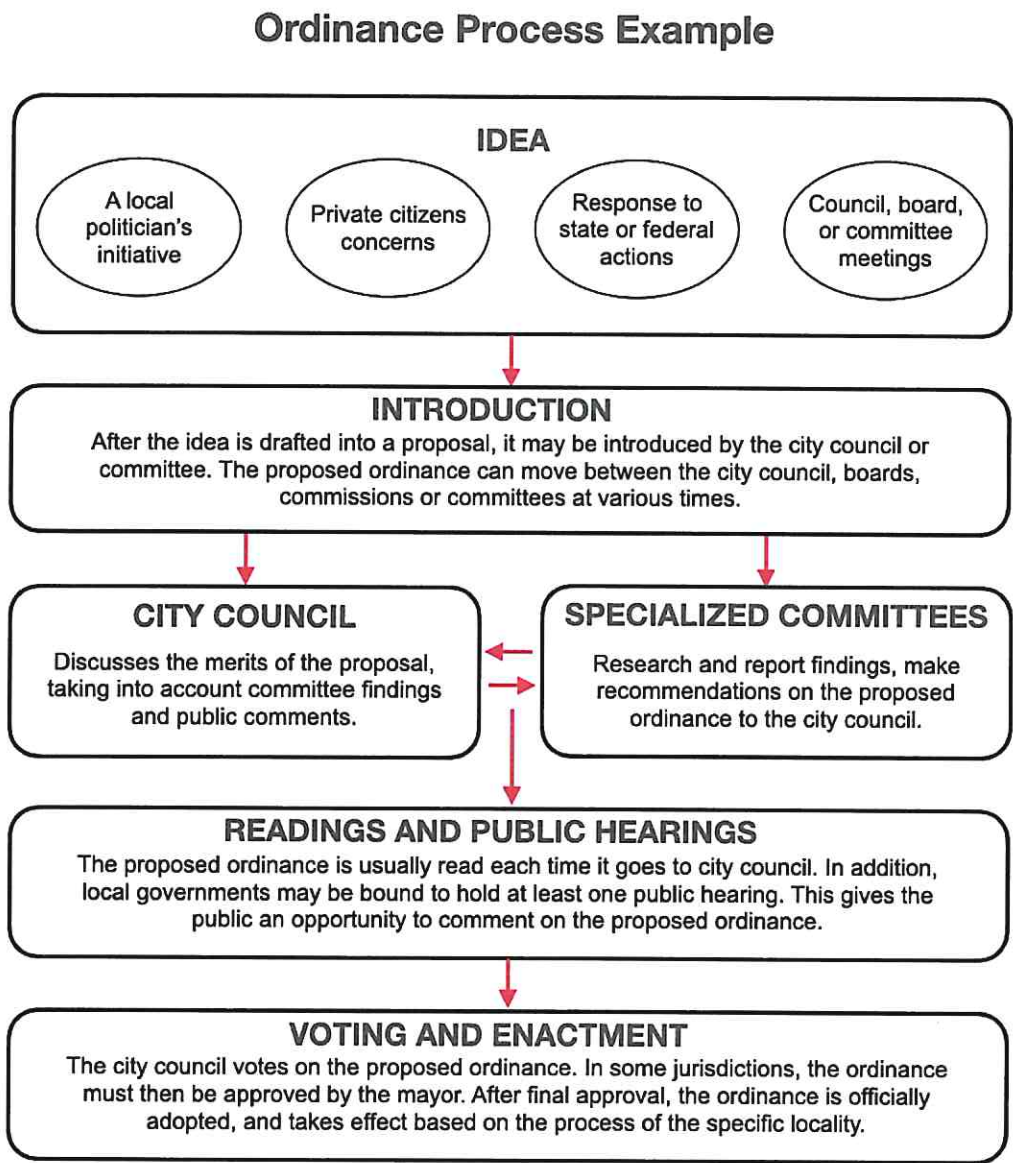


Figure 1. Ordinance Process Example⁴

³ Charter cities can be governed by provisions in their own charters rather than the general law of California, but the process is similar.

⁴ Excerpted from "Ordinance Process," Statescape. <https://www.statescape.com/resources/local/ordinance-process/>

Adopting a new city ordinance is a complex and lengthy process. However, mechanisms are available when local emergencies or other urgent conditions require a city to adopt new laws and regulations for limited periods of time. In the event of a local emergency, California law permits a city to declare local emergencies when a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.⁵ Alternatively, a local government can pass an urgency ordinance to take effect immediately where necessary for the immediate preservation of public peace, health, or safety and passed by a four-fifths vote of the city council.⁶ Both emergency orders and urgency ordinances generally lapse when the emergency or threat to public health conditions requiring their adoption ceases.

Building Outdoor Dining in the Public Right-of-Way

If a restaurant wishes to make use of public space, such as the city sidewalk or adjacent parking spaces, it must obtain a special permit from the city for encroachment in the public right-of-way prior to construction. Such permits specify the conditions that must be met for that encroachment. Typically, the applicant seeking the permit is required to indemnify the city from lawsuits, maintain a specified minimum amount of liability insurance, and comply with operational standards to ensure public safety. After a permit is issued and the facility is constructed, the city conducts inspections to ensure that what is built complies with the permit specifications. When inspections are completed, the permit is signed off and the restaurant can open to the public. If there are any permit compliance deficiencies, they must be resolved before the permit can be signed off.

Local agencies responsible for restaurant permit compliance inspections typically include the city planning department, building department, and the fire department. The planning department may have a permit process for the right-of-way encroachment. The building department may inspect construction for compliance with building codes, as well as ADA requirements. The fire department may inspect new construction for the adequacy of its fire suppression measures and execute periodic checks for sprinklers and fire extinguishers. Should any required inspections find something non-compliant, the issue must be rectified prior to final approval. The space cannot be occupied by the public until the permit has final approval.

Cities do not inspect restaurants' daily operations, such as compliance with the food safety requirements, because that task is the responsibility of the County Health Department, which monitors compliance with food safety and similar legal requirements. Health Department inspections are primarily concerned with kitchen and bar operations, so their influence on outdoor dining regulation is limited.

⁵ Gov. Code § 8610 and § 8634

⁶ Gov. Code § 36937(b)

The COVID-19 Health Emergency Orders

With the emergence of the COVID-19 virus in March 2020, the six Bay Area counties responded with declarations and emergency orders based on health and public safety conditions. The first order issued by the counties restricted business activities and ordered residents to shelter at home, which was followed by Orders from the California Governor's office.⁷ Counties directed bars and clubs to close and restaurants to open only for drive-through or pick-up and delivery.⁸ In June 2020, the County released an emergency order that temporarily suspended outdoor dining use permit and zoning requirements, allowing restaurants in the unincorporated areas to move more operations outdoors.⁹ The cities issued their own temporary orders allowing outdoor dining, similar to the County order.

Impact on Restaurants

In 2021, the National Restaurant Association reported restaurant sales at \$799 billion, down \$65 billion from 2019's pre-pandemic levels. The number of restaurant employees at the end of 2021 was 14.5 million, down one million from 2019's pre-pandemic levels. Ninety thousand restaurant locations were temporarily or permanently closed.¹⁰

San Mateo County estimated that about 230 of its roughly 3,700 food facilities went out of business during the pandemic.¹¹ Even restaurants with outdoor dining facilities were closed for a portion of the year, but those without outdoor dining options were particularly hard hit.

⁷ Executive Department, State of California, Executive Order N-33-20, March 19, 2020

⁸ Office of Governor Gavin Newsom, "California Takes Action to Combat COVID-19"

⁹ County of San Mateo, Director of Emergency Services, Emergency Regulation No. 1 for the COVID-19 Emergency

¹⁰ National Restaurant Association, "Restaurant Industry Facts at a Glance"

¹¹ Pender, Kathleen, "COVID-19 pandemic takes businesses on rough ride", Climate Online Redwood City, March 15, 2021

Specifically, between March 2020 and March 2021, restaurant indoor dining was closed 78% of the year, while outdoor dining was closed only 33% of the year, as shown in Figure 2.¹²

Portion of the Year Bay Area Restaurants Were Closed March 2020 to March 2021 (By County)

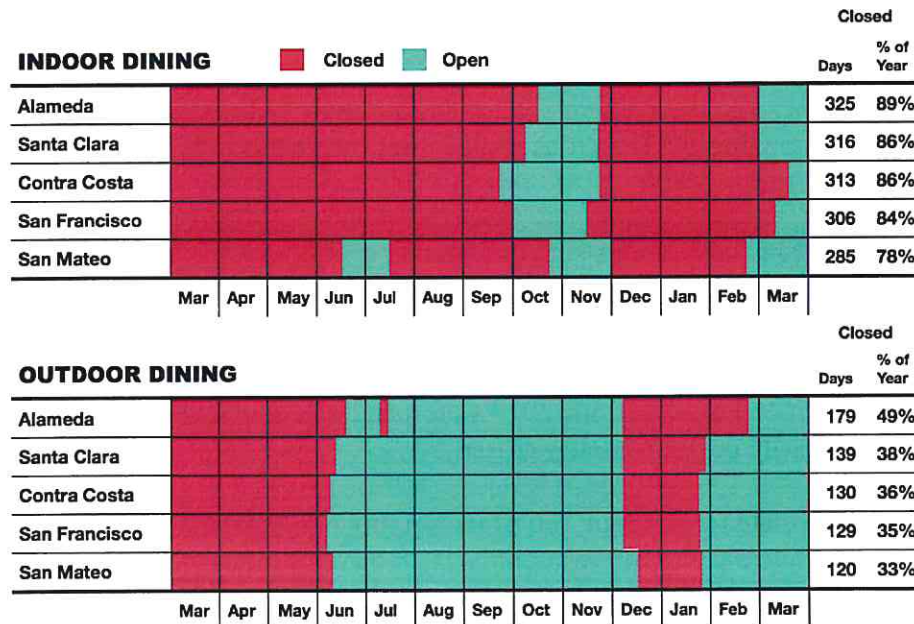


Figure 2. Portion of the Year Restaurants Closed

Cities were quick to respond by fast-tracking permit applications for outdoor dining encroachment, waiving fees and streamlining the process. Sidewalk cafes and parklets rapidly became a familiar sight throughout the county, keeping many businesses from being shuttered.

As cities experimented or struggled with temporary measures during the COVID-19 crisis, some also began to think about the possibility of making permanent provisions for more outdoor dining.

DISCUSSION

This Grand Jury investigation examined how jurisdictions implemented their temporary outdoor dining regulations in the public right-of-way, and whether or how they planned to convert them into permanent policies.

¹² Sulek and Rowan. "A year of COVID lockdowns: This Bay Area county stayed open months longer than others. So what was the impact?", The Mercury News, March 21, 2021

Survey

The Grand Jury investigation began in late 2021. In order to understand the scope of outdoor dining in the County, we prepared a short survey about cities' practices. We sought to identify cities with outdoor dining regulations prior to the pandemic, cities that created or modified outdoor dining regulations in response to the pandemic, and cities that anticipated adopting permanent outdoor dining regulations. The surveys were sent to the city managers of all 20 cities in the County (leaving aside unincorporated areas where County regulations would apply). We received responses from all, and the respondents agreed to a 10 to 20 minute follow-up telephone interview to confirm the survey responses. The survey and its results can be found in Appendix A.

Select Cities Interviewed in Depth

After reviewing the results of the survey and follow-up interviews, the Grand Jury selected six cities for in-depth interviews – Burlingame, Menlo Park, Millbrae, Redwood City, San Carlos, and San Mateo. The selection criteria included:

- Experience with permitted commercial establishments providing food or drink in outdoor public spaces prior to 2020;
- Sizable increases in the number of permitted commercial establishments providing food or drink in outdoor public spaces during the pandemic (by December 2021); and
- The intention to develop or modify permanent regulations for these establishments after the pandemic.

Menlo Park, Redwood City, and San Carlos all had pre-COVID-19 parklet experience. The number of outdoor dining establishments in Burlingame, Millbrae, and San Mateo had more than doubled. These six cities all indicated their intention to develop permanent outdoor dining regulations post-COVID-19.¹³

Growth in Outdoor Dining

Prior to 2020, most cities had some form of outdoor dining experience, such as sidewalk tables, parklets, on-site private outdoor space, and food vendors at temporary farmers markets or festivals. Survey results indicated that, by late 2021, the number of cities that reported parklets had more than tripled from the year before.¹⁴

¹³ Grand Jury survey

¹⁴ Grand Jury survey

The number of cities that saw sidewalk tables and outdoor dining parklets in use increased as shown below:

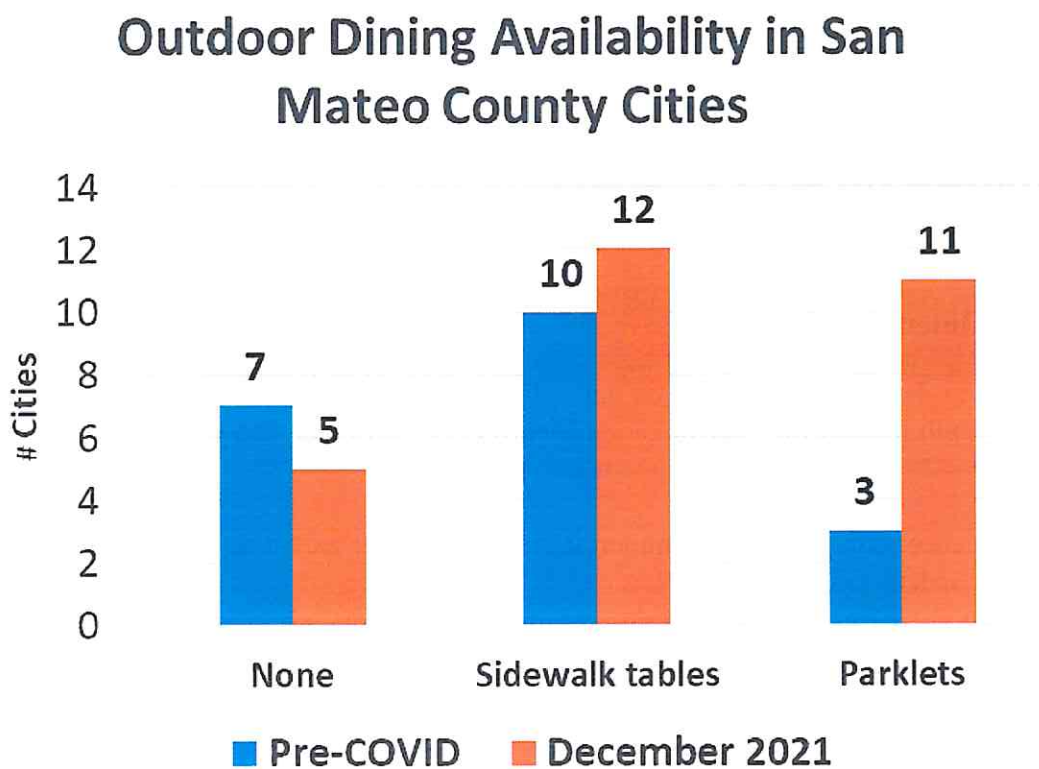


Figure 3. Outdoor Dining Availability (Source): Grand Jury Survey

Temporary Emergency Measures

The Governor's emergency proclamation in response to the COVID-19 pandemic both prompted and enabled cities to adopt emergency ordinances to respond to the crisis.¹⁵ City officials were empowered to proclaim the existence of a local emergency with instructions as to how the city should respond.¹⁶ The six cities we focused on all issued similar proclamations to allow outdoor dining.¹⁷

As the impact of the pandemic continued, cities repeatedly extended their temporary orders. For example, Redwood City's orders were extended four times, most recently set to expire July 5, 2022.¹⁸

¹⁵ Executive Department, State of California Executive Order N-33-20, March 19, 2020

¹⁶ City of Redwood City, City Code § 10.6

¹⁷ For example, see Redwood City's proclamation attached as Appendix B.

¹⁸ Grand Jury interviews

The six cities the Grand Jury interviewed at length temporarily relaxed zoning standards and waived permitting fees in an effort to help their business community. Restaurant owners were required to apply for temporary encroachment business permits.¹⁹

City Oversight of Outdoor Dining

Once cities determined that they would permit outdoor dining under some conditions, they also assumed an obligation to verify compliance with those requirements. For example, they had new responsibilities for inspections of parklet facilities, adequacy of traffic barriers, and following up on complaints about COVID-19 protocol compliance. This proved a challenge for some cities. When we asked cities about their oversight process, we found that they exercised different levels of oversight – ranging from actively walking around to engage with the restaurants to simply following up on complaints from the public.²⁰

We discovered that when the temporary orders allowed the option of outdoor dining, a number of restaurants took the initiative to start building outdoor dining facilities even before temporary permits were made available. Due to the nature of the emergency, cities were lenient and worked with these restaurants to fast-track the permitting process and issue permits.²¹

Each of the cities required permits in order to build outdoor dining facilities within the public-right-of-way (see Appendix B for an example). In only one of the six cities interviewed in depth by the Grand Jury were we able to locate evidence of documented permit compliance inspections. In that city, the permit inspection form included a checklist of a dozen items specific to building and fire safety codes (see Appendix C). The city's process required the business owner to complete the form in order to schedule an inspection. The completed form was then used by the city's inspection team as a checklist to verify compliance.²² The city issued 36 permits, of which 30 were provided to us. Of those, we found that 18 had deficiencies and that only one correction notice was documented.²³ In the other cities, the Grand Jury was unable to obtain any evidence of permit compliance inspections.

Although their ordinances require all construction to be compliant with the requirements of the Americans with Disabilities Act (ADA), the cities emphasized that the onus is on the businesses to make sure they are ADA compliant. The Grand Jury found no evidence that compliance with ADA construction standards was an inspection item at any of the cities we interviewed in depth.

¹⁹ Grand Jury interviews

²⁰ Grand Jury interviews

²¹ Grand Jury interviews

²² Grand Jury interview

²³ Grand Jury correspondence

Planning for the Future

In responding to our December 2021 survey, 12 of the 20 cities (and all six we interviewed in greater depth) responded that they planned to modify their outdoor dining regulations once the emergency order was lifted.²⁴ At the time we finalized this report, only one of the cities we interviewed in depth had completed the full process of transitioning from temporary to permanent regulations. The temporary programs in cities that have not yet adopted permanent regulations are at risk for expiration once their emergency orders are lifted.

The experiences of three cities illustrate the complexity of developing a modern outdoor dining program:

Burlingame

Burlingame began its process in May 2021 when a city council subcommittee began discussion of a fee structure for permanent parklet regulations. Two months later, the city council requested that the staff distribute a survey to get public input on parklets, which reconfirmed the popularity of the parklet program and the need to provide additional certainty to businesses.²⁵ At the December 2021 meeting, the city council approved the extension of the parklet program with the provision that a rent be charged for use of publicly owned space.²⁶ Thus far, the process has taken seven months.

Redwood City

Redwood City responded to the COVID-19 shutdowns by relaxing the zoning and permit requirements for outdoor dining, allowing the expansion of outdoor dining operations.²⁷ A task force composed of city staff and economic partners developed its temporary outdoor dining program.²⁸ They met on a bi-monthly basis for most of 2021 until the program stabilized. For almost a year, multiple departments worked with consultants to develop more permanent guidelines.²⁹ The effort was supported by business and community surveys that showed overwhelming support for the parklet program. Staff met regularly to review and discuss design, guidelines, fees, transition from the temporary program, ordinance amendments, and ADA requirements for a permanent outdoor dining program. In May 2022, city staff conducted a City Council study session for public input and Council feedback on a comprehensive outdoor business activities program.³⁰ So far, this process has taken more than a year.

²⁴ Grand Jury survey

²⁵ City of Burlingame City Council meeting, August 16, 2021

²⁶ City of Burlingame City Council meeting, December 6, 2021

²⁷ Redwood City Proclamation Allowing Outdoor Dining, September 1, 2020

²⁸ Redwood City Chamber of Commerce, Redwood City Downtown Business Group and Redwood City Improvement Association

²⁹ The departments involved included: City Manager's Office, City Attorney's Office, Community Development and Transportation, Fire, Parks and Recreation.

³⁰ City Council meeting, May 23, 2022; see Staff Report attached as Appendix D

San Mateo

The City of San Mateo began its process of converting temporary to permanent outdoor dining regulations in June 2021, when the city council adopted a resolution to establish guidelines for a long-term parklet program and associated permit fees.³¹ After going through an eight-month process, the city council approved permanent parklet program guidelines³² in February 2022 that went into effect on May 1, 2022, after the temporary program expired.³³

Burlingame, Redwood City and San Mateo are all following the normal ordinance process. Their experience is presented here to illustrate the complexity and time involved in the effort to transition from temporary to permanent ordinances. In two of the three cities, more work needs to be done before a permanent program is in place.

FINDINGS

Of the following findings, the first three apply to all six cities we examined in depth, and the fourth applies to all but the City of San Mateo:

- F1. The city has conducted permit compliance inspections as required under city regulations for its current outdoor dining facilities, but has not documented those inspections, which makes it difficult to manage compliance with permit requirements.
- F2. The city has not documented certain known outdoor dining permit compliance deficiencies, which makes it difficult to mandate that corrections must be completed.
- F3. The city has not documented corrections to certain known outdoor dining permit compliance deficiencies, which makes it difficult to ensure that any mandated corrections were in fact completed.
- F4. The city has failed to adopt permanent outdoor dining regulations to replace the temporary regulations, which must expire, creating unpredictability and potentially terminating the city's outdoor dining arrangements in a manner that would harm local business.

³¹ City of San Mateo City Council meeting, June 21, 2021, "Resolution to establish guidelines for a long-term Parklet Program and associated permit fees"

³² City of San Mateo Parklet Program Guidelines, as revised February 4, 2022

³³ Grand Jury correspondence

RECOMMENDATIONS

Of the following recommendations, the first applies to all six cities we examined in depth, and the second applies to all but the City of San Mateo:

- R1. The Grand Jury recommends that by March 31, 2023, the city council should give direction to city staff on how to prioritize enforcement of the entirety of its current outdoor dining regulations.
- R2. The Grand Jury recommends that by March 31, 2023, the city council should give direction to city staff about whether to develop permanent outdoor dining regulations for potential adoption.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the city councils of the following cities:

Responding Agency	Finding	Recommendation
City of Burlingame	F1, F2, F3, F4	R1, R2
City of Menlo Park	F1, F2, F3, F4	R1, R2
City of Millbrae	F1, F2, F3, F4	R1, R2
City of Redwood City	F1, F2, F3, F4	R1, R2
City of San Carlos	F1, F2, F3, F4	R1, R2
City of San Mateo	F1, F2, F3	R1

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

RESPONSE REQUIREMENTS

California Penal Code Section 933.05, provides (emphasis added):

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall report one of the following:

- (1) The respondent **agrees** with the finding.
- (2) The respondent **disagrees** wholly or partially with the finding; in which case the response shall **specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor**.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, **with a summary regarding the implemented action**.

(2) The recommendation has not yet been implemented, but will be implemented in the future, **with a timeframe for implementation.**

(3) The recommendation requires further analysis, **with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.**

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, **with an explanation therefore.**

METHODOLOGY

Documents/Sources

The Grand Jury reviewed and consulted numerous reports, news articles, and webpages in preparation of this report. Sources include the cities, the county, and the state as well as research organizations and professional associations. For a complete list see the Bibliography below.

Survey

To gather basic information about outdoor dining in the County, the Grand Jury conducted a survey of the City Managers in each of the 20 cities in the County. All City Managers or their designees completed the survey, and all respondents completed a follow-up telephone call to validate the survey responses. The survey and survey responses are included in Appendix A.

Interviews

As part of the investigation, the Grand Jury conducted 20 telephone interviews consisting of 10-20 minutes with each of the city survey respondents in order to validate their online survey responses. The interviewees included City Managers and other senior city staff.

From the 20 cities surveyed, the Grand Jury selected six for in-depth interviews to gain a better understanding of their experience with the creation of their outdoor dining in public spaces. The cities that were chosen represented a mix of populations and geography in the County. The Grand Jury interviewed ten responsible officials among the cities selected for in-depth interviews.

BIBLIOGRAPHY

- Sharon Stang, “Impact of the Coronavirus Pandemic on Businesses and Employees by Industry,” U.S. Bureau of Labor Statistics, Spotlight on Statistics, July 2021, <https://www.bls.gov/spotlight/2021/impact-of-the-coronavirus-pandemic-on-businesses-and-employees-by-industry/home.htm>
- Sulek and Rowan. “A year of COVID lockdowns: This Bay Area county stayed open months longer than others. So what was the impact?” The Mercury News, March 21, 2021
- City of San Mateo Parklet Program Guidelines, as revised February 4, 2022. <https://www.cityofsanmateo.org/DocumentCenter/View/85420/Permanent-Parklets-Guidelines?bidId=>
- Coronavirus Timeline: Tracking major moments of COVID-19 pandemic in San Francisco Bay Area, accessed June 8, 2022. <https://abc7news.com/timeline-of-coronavirus-us-covid-19-bay-area-sf/6047519/>
- Staff Report May 23, 2022, Outdoor Business Activity Program (Parklet and Sidewalk Café Program) Study Session. <https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/STAFFREPORT.PDF.pdf?meetingId=2338&documentType=Agenda&itemId=7269&publishId=10960&isSection=false>

LIST OF APPENDICES

APPENDIX A: Civil Grand Jury Outdoor Dining Survey Results

APPENDIX B: Sample Temporary Permit – Redwood City, September 1, 2022

APPENDIX C: Temporary Outdoor Parklet Inspection Checklist

APPENDIX D: Redwood City Staff Report May 23, 2022

APPENDIX E: City of San Mateo Parklet Encroachment Permit Application, February 4, 2022

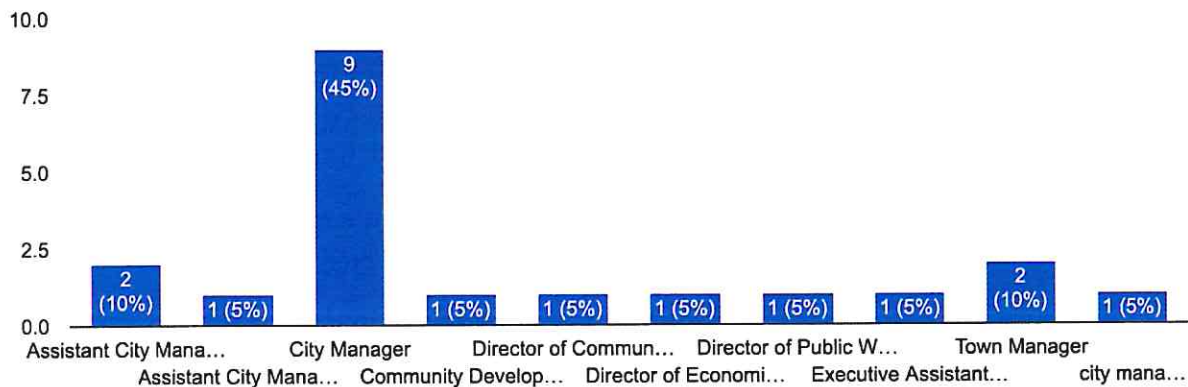
APPENDIX F: Burlingame Outdoor Dining Brochure

APPENDIX A **Civil Grand Jury Outdoor Dining Survey Results** **All 20 San Mateo County cities responded between December 2, 2021 and January 7, 2022**

The survey responses to 1) the “City Represented” and 2) the “Name of the Respondent” and email addresses are removed from the results shown below.

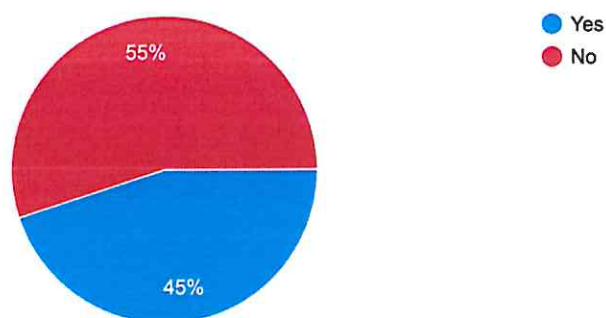
What is your job title?

20 responses



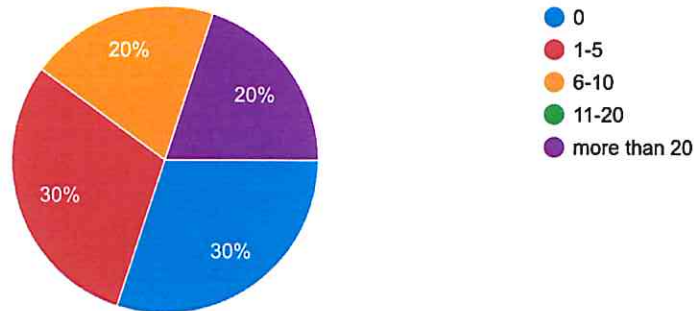
3. Prior to the COVID Public Health Emergency did your city have policies or regulations relevant to commercial provision of food or drink in outdoor public spaces?

20 responses



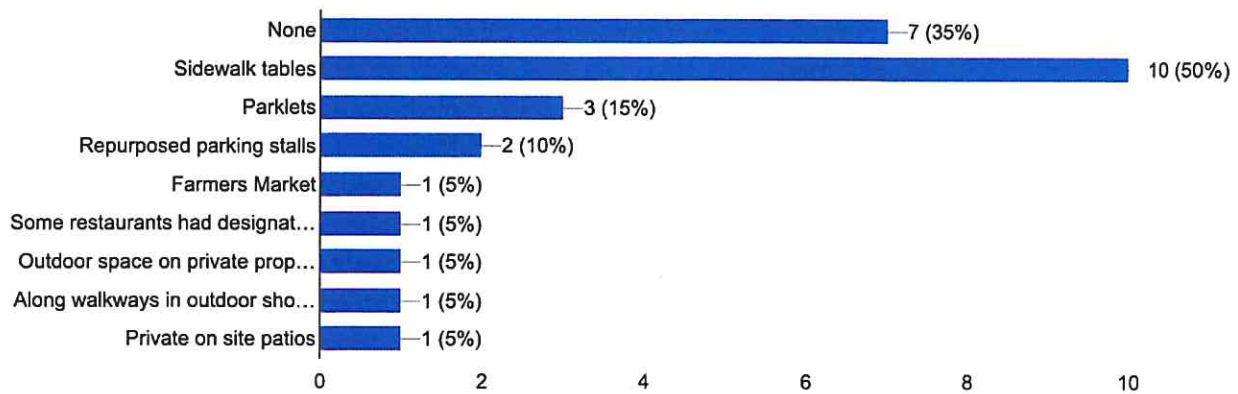
4. Prior to the COVID Public Health Emergency how many permitted commercial establishments provided food or drink in outdoor public spaces in your city?

20 responses



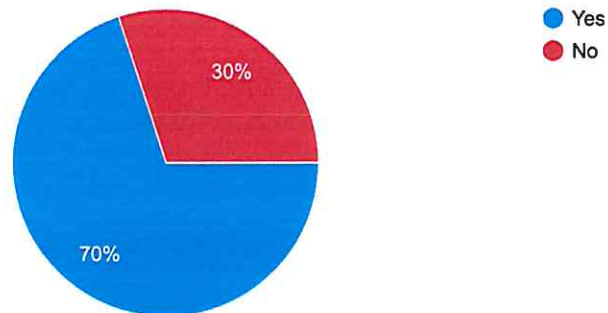
5. Prior to the COVID Public Health Emergency which if any of the following forms of establishments for outdoor consumption of food or ...were available in your city? Check all that apply:

20 responses



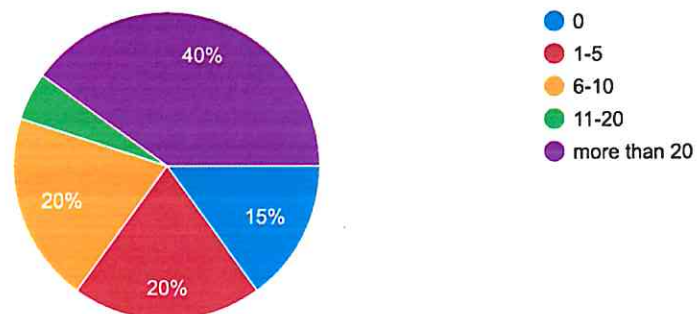
6. Since the COVID Public Health Emergency declaration has your city adopted any policies or regulations relevant to commercial provision of food or drink in outdoor public spaces?

20 responses

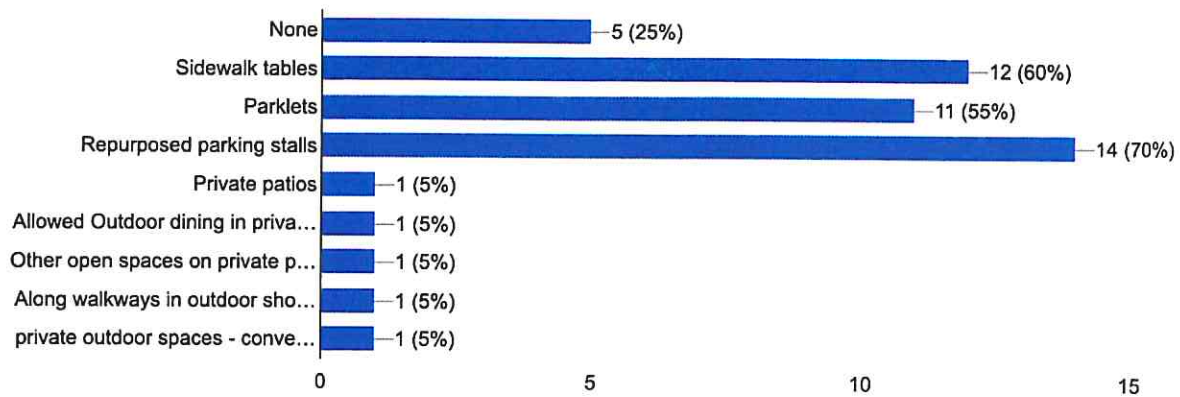


7. Currently, how many permitted commercial establishments are providing food or drink in outdoor public spaces in your city?

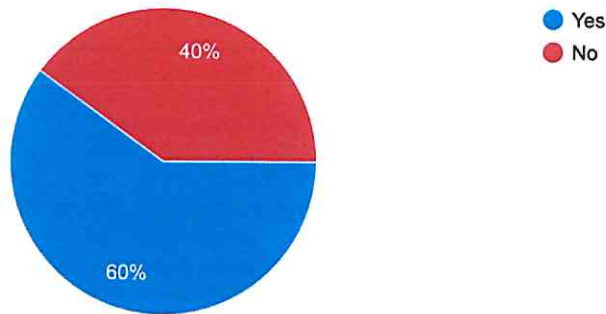
20 responses



8. During the COVID Public Health Emergency which if any of the following forms of commercial space for outdoor consumption of food or drink were available in your city? Check all that apply:
20 responses



9. Are there plans to modify your city's policies or regulations relevant to commercial provision of food or drink in outdoor public spaces after San Mateo County's Covid State of Emergency Order expires?
20 responses



APPENDIX B
Sample Temporary Permit – Redwood City, September 1, 2022

City of Redwood City
COMMUNITY DEVELOPMENT
AND TRANSPORTATION
DEPARTMENT



1017 Middlefield Road
P.O. Box 391
Redwood City, CA 94064
Telephone: 650.780.7380
Facsimile: 650.780.7309
www.redwoodcity.org

TEMPORARY OUTDOOR BUSINESS PERMIT (COVID-19) FOR USE OF PUBLIC AND PRIVATE PROPERTY

1. Address/location of proposed activity (the "Project Site") _____

2. Description of activity: _____
3. Proposed start date of activity: _____
4. Applicant(s) name(s): _____
5. Name of Business: _____
6. Mailing address: _____
7. Telephone and email: _____
8. City Business License Number or Account ID: _____
9. Check if use is on private property ☐ or on public property ☐
Applicants for use of private property are subject to Section 14.
Applicants for use of public property are subject to Section 15.
10. Provide site diagram or plan showing the outdoor activity area, path of travel, proximity to parking and/or traffic lanes, and general dimensions of furniture used.
11. Emergency Proclamation. The terms of the September 1, 2020 Proclamation of the Director of Emergency Services Allowing Outdoor Business Activity During the COVID-19 Emergency ("Emergency Proclamation") are hereby incorporated by reference.
12. Special Provisions. Applicants must comply with the requirements of Exhibit A (Operational Standards) and Exhibit B (General Terms and Conditions), attached hereto and incorporated by reference.
13. Parking. Where Applicant has exclusive use of a Project Site that is a parking lot, Applicant shall ensure that the Outdoor Activity does not generate adverse parking impacts on adjacent streets.
14. Requirements for Use of Private Property.
 - A. Provide private property owner's written, dated and signed consent for use of area to be used for the outdoor business activity (e.g., a parking lot) by signing this application. This is particularly important

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where the Applicant does not have exclusive use of the area to be used for outdoor business activity, e.g. a shopping center parking lot.

B. ADA parking space(s) must not be used for outdoor business activity under this permit. A minimum of one (1) pick-up/drop-off customer space must be maintained close to the business entrance.

C. For private parking lots, Applicant has met the following requirements:

- i. ADA parking space(s) and a minimum of one (1) pick-up/drop-off customer space is maintained close to the business entrance; and
- ii. Applicant has exclusive use of parking lot, and no more than 30% of the parking is used for outdoor dining or a site plan is provided showing the desired amount of parking spaces. Design should not generate overspill parking impacts to adjacent businesses or residents; or
- iii. Applicant does not have exclusive use of the parking lot, but has obtained approval from the owner/ landlord who holds these exclusive rights as acknowledged by signing the site plan showing the desired amount of parking to be used for outdoor dining and by signing this Temporary Outdoor Business Permit.

15. Requirements for Use of Public Property – Indemnification and Insurance. Section 15 shall apply where the Applicant is using City Property and/or Right of Way (as defined in [City Code Section 29.2](#)) for any work or activity performed under this Permit, including but not limited to outdoor business activity. Section 15 is not applicable to the use of private property.

A. Applicant agrees to defend, indemnify, and hold City and its City Council, officers, officials, employees, agents and representatives (all of the foregoing collectively "**Indemnitees**") harmless from and against all actual and alleged liability, loss, cost, claims, demands, causes of action, suits, legal or administrative proceedings, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorneys' fees and costs of litigation) (all of the foregoing collectively "**Claims**") resulting from or arising in connection with work performed by Applicant pursuant to this Permit; Claims resulting from or arising in connection with the failure on Applicant part to perform work under this Permit; Claims resulting from or arising in connection with the use of the Project Site or the improvements located thereon by Applicant or Applicant's agents, employees, invitees, contractors or subcontractors; or Claims arising as a result of or in connection with any release of any hazardous material in, on, under or about the Project Site by Applicant, or Applicant's agents, employees, invitees, contractors, or subcontractors, or any other violation of any environmental law by Applicant or Applicant's agents, employees, invitees, contractors or subcontractors. Applicant's indemnification obligations under this Permit do not apply to any Claims caused solely by the gross negligence or willful misconduct of any of the Indemnitees. Applicant's preceding indemnification obligations shall survive the expiration or earlier termination of this Permit.

B. Applicant shall file and maintain on file with the City evidence of self-insurance or a certificate of insurance demonstrating public liability and property damage insurance coverage of a type and in amounts determined sufficient by the City's Risk Manager. The insurance coverage shall insure the Applicant and the City, its City Council, officers, agents, officials and employees, against any loss by reason of injuries to, or death of persons, or damages to property arising out of or related to any work performed by the Applicant, its agents or employees performed under this permit, or arising out of the failure on the Applicant's part to perform work under this permit, or arising from or caused by the structures or encroachments placed in, on, under or over the surface of any right-of-way or City property pursuant to this permit. Such insurance shall be primary and provide coverage for all liability assumed by the Applicant for work performed under this permit and shall be provided by the Applicant in minimum amounts as required by the City's Risk Manager.

Applicant(s) Acceptance of City's Permit Terms and Operational Standards:

Applicant(s) hereby accepts this permit subject to all terms and conditions set forth in the permit application and attached Operational Standards form, and agree(s) that all of said terms, conditions and provisions shall be binding on Applicant(s), co-owners, heirs, assigns, transferees and successors of interest of every nature.

Applicant Signature: _____ Date: _____

Applicant Signature: _____ Date: _____

Property Owner Signature: _____ Date: _____

---- City of Redwood City Staff Use Only ----

Permit No: _____ **Applicant:** _____

<p align="center">PERMIT GRANTED BY CITY ENGINEER, CITY OF REDWOOD CITY</p> <p>Permit Valid Beginning: _____</p> <p>Evidence of Insurance Provided: _____</p> <p>Address/Location of Activity: _____</p> <p>Conditions: <u>**Permit Subject to Terms in the Attached Exhibit A and Exhibit B**</u></p> <p>Permit Issued By: _____ On this date: _____</p>

INSTRUCTIONS FOR COMPLETING APPLICATION

I. GENERAL

- A. Complete the Application for the Temporary Outdoor Business Permit (COVID-19) by filling in all requested information, and by signing the application as the Applicant on the second page.
- B. Fees for encroachments under City Code Section 29.26 are waived by the Director of Emergency Services/City Manager.

II. INSURANCE (City Property or Right of Way)

- A. Companies writing the insurance required under the Application shall be licensed to do business in the State of California, or be permitted to do business under the Surplus Line Law of the State of California.

COVERAGE REQUIRED

- B. Where Applicant is using City property or Right of Way, Applicant shall procure and maintain throughout the duration of this permit the following insurance coverage:

Commercial General Liability Insurance. This insurance shall protect the Applicant from claims for bodily injury and property damage that may arise because of work performed pursuant to this permit.

- 1. Type of Coverage. This policy of insurance shall include the City of Redwood City, its Council, boards, commissions, officers, employees, and agents as insureds under this policy, but solely as respects liability arising out of all operations of the Applicant for work performed pursuant to this permit. This policy shall provide coverage to each of the said insureds with respect to said work. Both bodily injury and property damage insurance must be on an occurrence basis, and said policy shall provide that the coverage afforded thereby shall be primary coverage to the full limit of liability stated in the declaration, and if the said insureds have other insurance against the loss covered by said policy that other insurance shall be excess insurance only.
- 2. Amount of Coverage. The bodily injury and property damage liability coverage for the comprehensive general liability insurance policy and the automobile liability insurance policy shall each provide for the following limits of liability coverage: \$1,000,000 on account of any one occurrence with an aggregate limit of not less than \$1,000,000 combined single limit.

3. *Umbrella Policy.* At the option of the Applicant, primary limits may be less than required, with an Umbrella Policy providing the additional limits needed. This form of insurance will be acceptable provided that the Primary and Umbrella Policies both provide the insurance coverages herein required.

Worker's Compensation and Employers' Liability Insurance. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the Applicant is required to secure the payment of compensation to their employees, and for that purpose, obtain and keep in effect adequate Workers' Compensation Insurance. If the Applicant, in the sole discretion of the City of Redwood City, satisfies the City of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, they may so act, and in such case, the insurance required by this paragraph need not be provided.

The Applicant is advised of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that code, shall comply with such provisions and have Employer's Liability limits of \$1,000,000 per accident before commencing the performance of any work authorized by this permit.

III. PROOF OF COVERAGE

- A. Prior to beginning work, Applicant shall furnish the City with copies of the insurance certificate and endorsements. The endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- B. Insurance must include endorsements naming the City of Redwood City, its Council members, officers, boards, commissions, employees, and agents as additional, primary insureds.
- C. The endorsements are required for the General Liability Insurance.
- D. The insurance certificates and endorsements are to be received and approved by the City before work commences.

Exhibit "A"
Operational Standards

Eligibility

1. Outdoor Activities on private property shall be available only for those current tenants of the shopping center or commercial building and shall not be available to mobile businesses, or on vacant property, or on property without commercial tenants.
2. All Outdoor Activities conducted on private property must be done with consent of the property owner.
 - a) Outdoor dining may operate on private property and within the public right-of-way.
 - b) Retail may operate on private property and within the public right-of-way but limited to the sidewalk area only where space allows, consistent with applicable law including but not limited to ADA requirements. No use of on-street parking or closed streets is permitted.
 - c) Personal Services may operate on private property only. Electrolysis, tattooing and piercings are not allowed outdoors. Personal Services is defined in Zoning Ordinance Article 2 (Definitions), and any applicable Precise Plan, and includes but is not limited to hair salons, barbershops, nail salons, massage parlors, body waxing, facials and threading.
 - d) Fitness uses may operate on private property or in public parks. Use of public parks is considered by the Parks, Recreation and Community Services Department at (650) 780-7250 and not through the Outdoor Business Permit process. Fitness uses include but are not limited to gymnasiums, exercise studios, martial arts studios, health clubs, and similar uses.

Safety, Location, Accessibility

3. All Outdoor Activities shall be consistent with State Guidelines (including Statewide Industry Guidance), Executive Orders and County Health Requirements issued by the State and County in response to COVID-19 ("State and County Orders"). Outdoor Activities must, at all times, be operated in accordance with State and County Orders, including but not limited to, health guidelines regarding number of patrons, disinfectants, table spacing, use of shared materials, staff hygiene, and social distancing.
4. No permanent item or structures shall be installed on City property. No permanent or temporary signage shall be affixed to any publicly owned structure, including but not limited to streetlights, benches, bus shelters, or similar appurtenances.
5. The Outdoor Activity area shall be contiguous to commercial structures or walkways immediately adjacent to commercial structures. Businesses on private property shall utilize outdoor space contiguous to their tenant space unless authorized by the landlord to use other space contiguous to commercial structures or walkways immediately

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adjacent to structures. Notwithstanding the foregoing, a landlord may designate an alternative location for consolidated outdoor dining of take-away meals or retail pickup provided all other provisions of this Proclamation and State and County Orders are followed.

6. Temporary barriers not exceeding three (3) feet in height shall be placed in a safe manner around the Outdoor Activity area.

7. The Outdoor Activity area must remain clear of drive aisles and fire lanes necessary to provide adequate vehicular circulation and access by public safety vehicles in the event of a fire, medical, or other emergency.

8. A temporary accessible ramp from curb to Outdoor Activity area is required if a permanent ramp is not already available.

9. Accessible parking stalls, accessible van loading areas, and associated paths of travel shall not be impeded by Outdoor Activity areas.

10. Businesses shall not be permitted to expand beyond pre-Covid-19 capacity.

11. No permanent items or structures shall be installed within the Outdoor Activity area.

12. All walkways and sidewalks shall maintain a five-foot clear path of travel.

Operations

13. Temporary canopies or tents must comply with fire requirements. Permits from the Redwood City Fire Department are required for canopies or tents over 400 square feet. Only one side of the tent or canopy can be closed at any given time.

14. Hours of operation for Outdoor Activity uses shall not exceed the normal hours of operation for the corresponding business with which the outdoor use is associated.

15. Outdoor Activity areas shall be regularly maintained free of trash and debris.

16. Use of electric powered tools such as hair dryers, cutters, curling irons, steam machines, equipment for polishing or electric nail drills shall only be allowed if the cords are kept from the path of travel, and shall be removed at the end of each day. Hair blowers cannot be used outside.

17. Any outdoor alcohol consumption shall be in compliance with the rules and regulations of the Department of Alcoholic Beverage Control and State and County Orders.

18. No outdoor music or entertainment is permitted.

19. Outdoor cooking or grilling is not permitted.

Exhibit "B"
General Terms and Conditions

1. Applicant shall not use the Project Site to transport or store any hazardous materials.
2. The Outdoor Activity shall not restrict visibility to any traffic control devices or signs.
3. The Outdoor Activity shall not occupy exclusive bike lanes (where parking is not permitted), bus stops, or "no parking zones."
4. Upon request by the City, Applicant shall maintain and/or re-establish access to any blocked or covered utility pole, manhole, vault, cleanout, valve, junction box, meter box or other facility.
5. Applicant shall maintain Outdoor Activity and the Project Site in a good and safe condition.
6. Applicant shall ensure adequate visibility of the Outdoor Activity during daytime and nighttime hours.
7. Any public and/or private improvements damaged by the Outdoor Activity must be repaired or replaced in-kind to the satisfaction of the improvement owner and at Applicant's expense.
8. Applicant shall, at Applicant's expense, remove said Outdoor Activity, and this permit shall terminate upon expiration of the Emergency Proclamation, or within thirty (30) days after written notice from the City Engineer, whichever is sooner. Applicant agrees that in the event of failure to remove such Outdoor Activity within the time specified, the same may be removed by the City at Applicant's expense, which cost shall be reimbursed by Applicant to City.
9. Applicant shall comply with applicable City noise ordinances. Applicant shall also comply with all applicable local, state and federal laws, regulations, rules and orders, including without limitation all environmental laws, and further including City Code Chapter 29 (Streets, Sidewalks and Work in or Use of City Right of Way) except where exempted under the Emergency Proclamation.
10. If the Project Site is City property or Right of Way, Applicant shall make no alterations whatsoever to the Project Site unless authorized in writing in advance by City. Any alterations authorized by City shall be constructed in strict conformance with plans approved by City.
11. This Permit, together with these General Terms and Conditions and any referenced exhibits, attached hereto and incorporated herein by reference, constitutes the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statement with respect thereto. This Permit may be amended only by a written instrument executed by the parties hereto. If any term, provision, or condition of this Permit is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Permit shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby.

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12. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Permit nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right. No waiver of any breach of any covenant or provision of this Permit shall be deemed a waiver of any subsequent breach of the same or any other covenant or provision hereof. No waiver shall be valid unless in writing and executed by the waiving Party.
13. The rights granted hereby are personal to Applicant and may not be transferred or assigned by operation of law or otherwise without the written consent of City. Nothing in this Permit is intended to or shall confer upon any person other than the Parties any rights or remedies hereunder.
14. Working hours are limited to normal operating business hours. Applicant shall be solely responsible for providing all protective and safety measures necessary.
15. Applicant shall provide for safe movement of vehicular, bicycle, and pedestrian traffic including persons with disabilities in accordance with the Americans with Disabilities Act (ADA) through and around construction operations.
16. Final Decision; Appeal. The issuance of this permit shall constitute the final decision of the Community Development and Transportation Department. If Applicant wishes to dispute any condition of approval listed in this Permit, it has fifteen (15) days from the date of permit issuance to file an appeal to the City Manager or designee, which may be a hearing officer. The appeal shall be heard as soon as feasible and informally conducted.

APPENDIX C
Temporary Outdoor Parklet Inspection Checklist

Temporary Outdoor Parklet Inspection Checklist

Use of sidewalks, parking places, or City streets for dining, gathering, or display of retail wares requires an encroachment permit from the [REDACTED]. Encroachment permits are for temporary use only and may be discontinued or revoked at any time. By filling out the blanks and checking each box below, you acknowledge that you are in compliance with all requirements herein. Please complete this checklist and information form and submit them online to the following: [REDACTED] by January 18, 2021.

Business Name:

Business Owner:

Business Address:

Contact Mobile Number:

- ☐ An encroachment permit from the Public Works Department is required for all temporary outdoor parklets. (Public Works) Your Encroachment Permit No: _____ (Public Works)
- ☐ Parklets may only contain seating, tables, umbrellas, tents, canopies, membrane structures, and other types of shade or weather coverings. (Public Works)
- ☐ Every permitted parklet shall have a worksite specific plan and must be posted at the front door. (Public Works)
- ☐ Any tent, canopy, fabric, or membrane structure material must be fire resistant and have a label sewn into the fabric indicating it is approved by California State Fire Marshal (CSFM) or CPAI84. (Fire)
- ☐ Any tent over 400 square feet requires a tent permit from the Fire Department. (Fire)
- ☐ If over 400 square feet, provide Your Fire Permit No: _____ (Fire)
- ☐ All floor coverings inside any tent, canopy, or membrane structure must be fire resistant. (Fire)
- ☐ Propane heaters, natural gas heaters, fire pits, and open flame devices are prohibited to be used under any tent, canopy, umbrella, or membrane structure or within five (5) feet of any combustible material. (Fire)
- ☐ The use of any permitted parklet after dark requires means of egress illumination. (Fire)
- ☐ The use of any electrical extension cords, multi-plug adaptors and outlets, and gas powered generators are prohibited. (Fire)

- ☐ Each parklet must have at least one (1) fire extinguisher with a minimum rating 2A10BC for every fifty (50) feet of travel distance mounted no more than 42" off the finished floor. (Fire).
- ☐ "No smoking" signs must be posted in a conspicuous location inside each tent, canopy, or membrane structure. (Fire)
- ☐ Electrical lighting used to provide means of egress must be installed by a C-10 licensed electrical contractor. (Building)
- ☐ The use of electric heaters may be allowed if each heater is directly plugged into a GFCI socket and installed with an electrical permit by a C-10 licensed electrical contractor. (Building)

APPENDIX D
Redwood City Staff Report May 23, 2022



STAFF REPORT

**To the Honorable Mayor and City Council
From the City Manager**

DATE May 23, 2022

SUBJECT

Outdoor Business Activity Program (Parklet and Sidewalk Café Program) Study Session

RECOMMENDATION

Hold a Study Session on the proposed Outdoor Business Activity Program, guidelines, fees, proposed ordinance revisions, and receive public input and individual City Councilmember feedback. No final City Council action will occur at this meeting.

STRATEGIC PLAN GUIDING PRINCIPLE

Economic Vitality

BACKGROUND

On June 6, 2020, San Mateo County's Shelter in Place (SIP) order to address the COVID-19 pandemic was revised and San Mateo County Order No. c19-5f allowed "outdoor dining" in cities within the County. On June 15, 2020, the City Manager as the Director of Emergency Services issued a Proclamation to allow expanded outdoor restaurant dining citywide on private property and in the public right-of-way to address the serious economic impacts COVID-19 experienced by restaurants and provide safe dining options for customers.

On June 22, 2020 the City Council ratified the Proclamation and approved the street closures and staff implemented the street closures and designated parking spaces for outdoor dining for grab-and-go delivery on June 26, 2020. The initial term for the outdoor dining program was from June 26, 2020 to September 30, 2020.

On September 14, 2020, the City Council adopted a resolution ratifying the September 1, 2020 Proclamation by the Director of Emergency Services allowing Temporary Outdoor Business Activity for the duration of the COVID-19 emergency and on this same date, City Council adopted a resolution authorizing the temporary closure of City streets to be extended through January 31, 2021.

On January 11, 2021, an extension of temporary street closures through December 31, 2021 to allow for continued outdoor business activity was approved. On November 22, 2021, the street closure was extended through July 5, 2022.

For detailed background information regarding the temporary street closures and the Temporary Outdoor Business Activity Program during the COVID-19 emergency, please refer to the November 22, 2021 [staff report](#).

As part of the Study Session this evening, staff is seeking individual City Councilmember feedback on the following questions:

1. Are the proposed fees, costs, and initial first year Program Use Fee Waiver appropriate?
2. Is the application intake window, time allowed for temporary parklet removal, and length of the Outdoor Business Activity Program adequate?
3. Is it appropriate to continue the temporary closure of the 2000 block of Broadway (between Jefferson and Main)? Staff is contemplating reopening the section of Broadway between Jefferson and Redwood Creek Crossing to provide vehicle access to the Marshall Street Garage and Main Street Parking Lot from Broadway.
4. Are the proposed Outdoor Businesses Activity Program Guidelines appropriate?

ANALYSIS

Over the past two years, the temporary outdoor business activity and street closure programs have been a success, with positive feedback and minimal complaints from the public as well as businesses expressing continued support for the program. About 40 businesses in the vicinity of Downtown have created temporary outdoor dining areas utilizing the temporary outdoor business activity program (two are located outside of the Downtown). However, after evaluating the success of the temporary program, most businesses are now ready to undertake additional investments in their outdoor dining areas as they recognize that is now the preferred method for customers to dine. Customers have consistently expressed to businesses that their preference is to not dine inside, but outside, and that is not likely change in the near future. Without a longer term outdoor business activity program in place or defined program parameters, businesses are uncertain on how to move forward. Now after two years, most businesses have expressed that it makes financial sense for them to pursue a longer term outdoor business activity program and are eagerly awaiting action from the City.

Outdoor Dining History and Outdoor Business Activity Program

Based on feedback from the community and businesses, staff has been hard at work developing a longer term replacement to the Temporary Outdoor Business Activity Program. See below for a brief history of outdoor dining in Redwood City:

- **Sidewalk Café Program** – In operation since about 1977, allows outdoor dining located along sidewalk areas
- **Sidewalk Café Pilot Program**– A pilot program established around 2014, allows outdoor dining in parking stalls on built platforms
- **Temporary Outdoor Business Activity Program** – Established in June 2020 (along with temporary street closure), allows businesses to utilize parking stalls for outdoor business activity, typically outdoor dining, on a temporary basis. The temporary street closure is set to expire on July 5, 2022. On June 27, 2022, staff plans to recommend a modified street closure for a portion of the 2000 block of Broadway between Redwood Creek Crossing (the roadway providing vehicle access to the Main Street parking lot and Marshall Street Garage from Broadway) and Main St.. This modified temporary closure will allow for vehicle access and traffic flow to the Main Street parking lot behind City Hall and the Marshall Street garage. This will allow better access for trash pick-up and deliveries and free up additional parking stalls adjacent to the building located at 2075 Broadway. The Downtown Precise Plan Update will be exploring a longer term street closure of the 2000 block of Broadway (between Main and Jefferson) in the context of development activity as a whole in the Downtown; analysis is currently underway.

The proposed Outdoor Business Activity Program will replace all previous programs listed above.

In a traditional sense, parklets are typically built platforms converting curbside parking spaces into more active amenity space. In Redwood City's situation, these converted spaces would be used as an extension of business' operation, typically used for outdoor dining and for private use only. Businesses have expressed this as important to the success of the Outdoor Business Activity Program, as it will enable the business to exercise control over the space, to maintain, clean, and monitor these areas at their own cost, and to limit their liability should an incident occur in their outdoor space of business.

Outdoor business activity on private property is not subject to this program, and businesses must work separately with the Planning Division on review and approval of their proposal.

Under the Outdoor Business Activity Program, both sidewalk cafes and parklets will allow any business to apply to use the public right-of-way, and would not be limited to outdoor dining only. Although the provided templates focus on tables and chairs, staff can work with each individual business to understand how they intend to use the outdoor space for their business needs.

Outdoor Business Activity Guidelines and Templates

To streamline the process and unify the disparate programs and program guidelines, design templates were created by M-Group, a planning and design consulting firm that the City sought, to create an easy to understand guiding document for businesses to use (Attachment A).

Multiple departments and divisions, including the City Manager's Office, City Attorney's Office, Community Development & Transportation (Building, Engineering, Planning, Transportation.), Fire, Parks and Recreation, worked with consultants to develop these guidelines over the course of almost a year. Staff met regularly to review and discuss design templates, guidelines, fees, street closures, permitting and process, program operations, the transition from the temporary program, history of outdoor dining, ordinance amendments, business outreach, ADA requirements, license agreements, and many other components of the Outdoor Business Activities Program. This effort led to a comprehensive Outdoor Business Activities Program for City Council review.

The proposed Outdoor Business Activity Guidelines include both Parklets and Sidewalk Cafes, and contain the following:

- Application checklist (application form, insurance, plans/drawings, license agreement, etc.)
- Design templates for different street configurations (plans drawings must still be created and submitted for building permit review)
- Overview of the permit review approval process, timing and requirements
- Design components and furnishings
- Additional design requirements and special conditions

To condense the information and provide an overview of the program more easily and readily to businesses, a two-page handout was created to provide a snapshot of the Outdoor Business Activity Program (Attachment B).

Key Features of the Outdoor Business Activity Program

The following are some key features of Redwood City's Outdoor Business Activity Program:

- As expressed by many of our business interactions, the parklets in Redwood City's Outdoor Business Activity Program will be an extension of the businesses' operation and for **private use** only.
- Application for Outdoor Business Activity Permit requires **both business and property owner consent**. In situations where a shared parklet or sidewalk cafe is desired, all businesses and property owners fronting the parklet or sidewalk cafe must agree to the shared parklet or sidewalk cafe.
- Outdoor Business Activity will be **limited to the business's storefront**, but a request to extend the activity beyond the business's storefront may be entertained on a case by case basis. If use of a neighboring business's frontage is proposed, consent must be obtained from both the neighboring business and property owner.
- In the event that a business that is requesting a parklet is fronting a **colored curb**, such as a red or yellow curb, staff will work with the business to accommodate their parklet request where feasible, which may include relocating colored curbs and/or coordinating with neighboring businesses to accommodate a subject businesses' parklet request.
- Outdoor Business Activity Permits will be **renewed annually**, with fees and inspections due every year.

- Up to **two parallel parking stalls** fronting the subject businesses will be allowed. For businesses where diagonal parking is fronting the business, up to three stalls will be allowed fronting the business. Requests for additional stalls beyond two (parallel) or three (diagonal) stalls will be reviewed on a case by case basis.
- To maintain the open and airy feeling of outdoor dining, overhead structures, **particularly solid roof structures, are discouraged**. Fabric awnings, umbrellas, and other soft retractable material is encouraged to provide shade and limited weather protection while also allowing light in. Applications for overhead structures may be permitted as a special allowance, but will require engineered drawings and more time for staff to review and process. These overhead structures go beyond the template parameters and require a higher level of review.
- **Hours of operation** for outdoor business activity must coincide with the business's hours of operation, except outdoor business activity shall not take place beyond 11 p.m. on weeknights, 12 a.m. on Saturday, and 10 p.m. on Sunday.
- Outdoor Business Activity Permits are **non-transferable**, and any new business requesting to use a previous businesses' parklet or sidewalk cafe must reapply for a permit.

Fees and Costs

A cost comparison of parklet program in other cities, whether long-term or temporary, are included below for comparison:

Parklet Fee Comparison (Approximate)			
City	Parklet 1st Year (2 Stalls/360 sq. ft.)	Annual	Notes
Los Altos	\$500	\$100	\$500 initial application fee
Morgan Hill	\$672		\$672/7 Years for Encroachment Permit, \$1,000 Annual Rental Fee Waived Until 2024, \$1000 Security Deposit
Pleasanton	\$1,000		Encroachment permit (minimum)
San Mateo	\$1,000		\$500 permit application, \$500 encroachment (\$250 per stall)
Redwood City (Proposed, See Below)	\$2,226	\$583	See analysis in body of staff report
San Carlos	\$2,533	\$289	\$539 encroachment, \$1289 for 2 stalls (\$3.58/sq. ft.), \$705 annual cleaning
Redwood City (Existing)	\$2,538		\$2,488 permit, \$50 application
Mt View "Castro St"	\$3,349	\$205	\$769 processing, \$2,400 for 2 stalls, \$180 annual cleaning
Burlingame	\$5,100		Sidewalk encroachment application is \$431, plus \$1 for each square foot over 200 sq. ft., \$1,500 annual rental, \$3,000 annual cleaning

For Redwood City, the proposed permit fees are about average for the first year when compared to other neighboring jurisdictions. Among peer cities of a similar size, Redwood City is one of the first proposing a long-term Outdoor Business Activity program that is not temporary in nature. Many other cities also do not currently charge for parking like Redwood City where parklets are proposed, complicating what they believe is appropriate to charge because they do not need to factor in the loss of meter revenue. Furthermore, the City contracted with Matrix Consulting Group to conduct a fee study to calculate the full cost associated with Outdoor Business Activity permits and recommend the amount that the City is able to charge in accordance with State law (Attachment C). The fee study prepared by Matrix has detailed the total maximum cost that the City is able to charge for the Outdoor Business Activity Program, which includes appropriate staff time to review each parklet and/or sidewalk café, is also known as the Processing Fee.

To recoup the City's costs for business use of City right-of-way, a Use Fee is also proposed to offset the loss of meter revenue and/or cost for sidewalk repair/maintenance. To limit the cost of businesses to build parklets and sidewalk cafes, staff recommends waiving the Use Fee for the first full year of operation. See below for what the City is allowed to charge per the Matrix fee study and a proposed breakdown of encroachment permit fees for Outdoor Business Activities:

Outdoor Business Activity - Encroachment Fees*			
Parklet	1st Year	2nd Year Renewal	Subsequent Year(s) Renewal
Outdoor Business Activity Permit (Processing Fee)	\$2,226	\$583	Increased by CPI
Use of Space Offset†, New (Use Fee, \$10.16 per sq. ft., 2 stalls/360 sq. ft. average)	\$3,657.60	\$3,657.60	Increased by CPI
Maximum Cost (2 Stalls/360 sq. ft. average):	\$5,883.60	\$4,240.60	Increased by CPI
Recommended Cost (Waive** Use Fee for 1 st year):	\$2,226	\$4,240.60	Increased by CPI
Sidewalk Café Only (with or without structures)	1st Year	2nd Year Renewal	Subsequent Year(s) Renewal
Outdoor Business Activity Permit (Processing Fee)	\$2,226	\$583	Increased by CPI
Use of Space Offset†, New (Use Fee, \$10.16 per sq. ft., 150 sq. ft. average)	\$1,524	\$1,524	Increased by CPI
Maximum Cost (150 sq. ft. average):	\$3,750	\$2,107	Increased by CPI
Recommended Cost (Waive** Use Fee):	\$2,226	\$2,107	Increased by CPI

* Rates are based on staff fully burdened rates, and includes direct costs (time), and indirect costs (departmental and Citywide). Does not include other City fees, such as building permit fees.

† Based on Option 2 of the Matrix Fee Study

** Acknowledging the significant first year program and capital costs for businesses, staff proposes waiving the City's use fee for the first year of the program to help businesses recover their parklet/sidewalk café initial expenses.

The Outdoor Business Activity Permit (Processing Fee) plus Use of Space Fee (Total Square Footage) equals the Annual Operating Cost.

To allow for this Outdoor Business Activity Permit, appropriate municipal code changes to Chapter 29 (Streets, Sidewalks and Work in or Use of City Right-Of-Way Ordinance) and Chapter 33A, Article II (Use of The Downtown Sidewalk Café Area) will be presented to Council at a later date. The changes include defining the different types of outdoor business activities, clarifying the revocation and appeal process, relocating the code section related to portable signs, and other terms and conditions. A second reading will be required for both ordinance amendments.

Parklet Supply and New Business Applications

Of the 40 businesses that are currently participating in the Temporary Outdoor Business Activity Program, most have signaled interest in applying for the proposed Outdoor Business Activity Program. Staff does not anticipate that the current supply of parking stalls (100) occupied by Temporary Outdoor Business Activity Program will exceed the demand for the proposed Outdoor Business Activity program, therefore there is no proposal at this time to limit the maximum number of parking stalls to be made available for businesses interested in parklets. New businesses can apply for parklets, and staff will assess the feasibility along with the available parking supply and parklet saturation to determine if additional parklets can be accommodated. Staff does not believe there will be the same constraints with the sidewalk cafés which have no impact on the parking supply.

Land Use and Business License

Businesses applying for permits under the Outdoor Business Activity Program will only be allowed to expand the operations of the approved business and use, and may not expand their business operations to a different use without prior City approval (e.g., a flower shop may not apply for an Outdoor Business Activity to serve food and beverage fronting their business). The license agreement will stipulate that businesses may not grant a third-party use of the subject businesses' parklet or sidewalk café space. All businesses will be required to obtain a valid business license prior to approval of any Outdoor Business Activity.

Application Intake Process and Oversight

Staff is exploring using an existing City permitting systems to intake Outdoor Business Activity permit applications when the application window opens, approximately August 2022. In addition to the application form being accessible online, a paper application form will also be made available. Community Development and Transportation (CDT) staff will implement and administer the program, as the parklets and sidewalk cafes are within the City's right-of-way and the Temporary Outdoor Business Activity Program was administered by CDT staff.

Enforcement and Compliance

Staff will work closely with our Code Enforcement and Building Divisions to ensure all parklets and sidewalk cafes are built and inspected according to approved plans. Annual renewals are required, and any unauthorized changes that are discovered must be corrected within a timely manner or it can be considered grounds for permit and license revocation.

Business Outreach in Developing this Program

Two surveys were conducted October to November 2021: a parklet survey for interested businesses and a community parklet survey. A summary of both survey results follows:

Businesses Interest Survey:

- 43 respondents identified themselves as interested businesses
- 61% are a restaurant, eatery or café
- 61% are participating in the temporary parklet program
- 71% have indicated the temporary parklet program has been helpful for their business operations, with 8% indicating it has not been helpful, and 21% indicating it has been neither helpful nor unhelpful
- 73% of businesses who are participating in the temporary program would be interested in the parklet program, with 5% not interested; 22% are not participating in the temporary program
- 73% of businesses would still interested in the parklet program if a fee of \$3,000 per parking stall per year (\$6,000 for two stalls) was required

Community Parklet Survey:

- Almost 800 respondents completed the survey
- 91% of respondents indicated they dine at restaurants, cafes, and or/bars when visiting downtown
- 89% of respondents have experienced the temporary parklet program in downtown
- 58% of respondents indicated they would visit more often if parklets were permitted on an annual basis, while 36% indicated they would visit about the same amount
- 67% of respondents indicated they had no concerns with the impacts of parklets
- 96% of respondents have experienced the temporary street closure along the 2000 block of Broadway
- 59% of respondents indicated they would visit more often if the 2000 block of Broadway was closed longer term, while 33% indicated they would visit about the same amount, and 8% indicating they would visit less often
- 85% of respondents indicated they would like the 2000 block of Broadway (between Main St and Jefferson Ave.), to remain closed, with 53% of respondents indicating they would like the segment between Main St. and Redwood Creek Crossing closed, with 11% not wanting to see any street segments closed.
- 62% of respondents indicated that they have no concerns with impacts related to the street closure

In coordination with the Downtown Business Group (DBG), City staff conducted almost 40 in-person outreach meetings over 10 days with Downtown businesses in October and November of 2021. We were seeking ways to better understand their concerns regarding the proposed parklet program, their needs, and what has and has not been working under the temporary program. We also took this opportunity to describe the goals of the Outdoor Business Activity Program, discuss potential costs, timing, challenges,

and gain a deeper understanding of how important this program would be for the survival of their business.

Staff held a Parklet Q&A Session for interested businesses who still had outstanding questions on March 31, 2022 with about 40 in attendance. Additionally, two Small Business Roundtable Meetings were held on April 6 and 7, 2022, with about 30 total in attendance across both meetings, where Parklets were one of two primary topics of discussion. The City had also presented the Outdoor Business Activity Program to the DBG's first in-person membership meeting on March 1, 2022, and staff presented to the Redwood City Improvement Association (RCIA) Board on April 13, 2022. Staff has worked very closely with the DBG, Chamber, and RCIA to understand business needs, share information related to the Outdoor Business Activity Program, and work through points of concern. RCIA graciously provided \$60,000 to the City towards development of the Outdoor Business Activity Program Guidelines and to support businesses within the Downtown.

Next Steps

Staff plans to return to the City Council on June 27, 2022 to propose introduction of ordinance amendments to Chapter 29 and Chapter 33A, adoption of the Outdoor Businesses Activity Program and Guidelines, adoption of Program fees, and extension of the temporary street closure along the 2000 block of Broadway.

EQUITY IMPACT STATEMENT

Equity and/or inclusion was considered in development or implementation of item through the following:

Engagement with relevant Redwood City communities through public meetings, surveys, or other means:

- Extensive outreach was conducted throughout the in-person outreach phase conducted in September and October 2021 to almost 40 businesses. Two surveys were conducted between October to November 2021: a parklet survey for interested businesses and a community parklet survey. The City most recently held a Parklet Q&A Session for interested businesses who still had outstanding questions on March 31, 2022 with about 40 in attendance. Additionally, two Small Business Roundtable Meetings were held on April 6 and 7, 2022, with about 30 total in attendance across both meetings, where Parklets were one of two primary topics of discussion. The City also presented the Outdoor Business Activity Program to the DBG's first in-person membership meeting on March 1, 2022, and to the Redwood City Improvement Association (RCIA) Board on April 13, 2022. All of the existing temporary parklets are within the Downtown vicinity and parklet interest is concentrated here, so the City's outreach efforts were in alignment geographically. However, any business within the City may apply for the Outdoor Business Activity Program.

Learnings related to equity consideration include:

In developing the Outdoor Business Activity program, sought to ensure a low barrier for entry for all businesses who may be interested in a parklet or sidewalk café. Recommendations to waive use fees in the first year will encourage all businesses to apply to the program.

FISCAL IMPACT

City parking revenue will continue to be forfeited where temporary parklets are installed. See below for an estimate of meter revenue lost to date/to be forfeited:

Parking Meter Revenue Lost* and Restaurant Sales (Approximate)			
June 2020† - July 2022	July 2022 - September 2023^	Total: June 2020 - September 2023	Restaurants w/Temporary Parklets, Gross Receipts (Calendar Year 2020)
\$591,200 - \$960,700	\$336,000 - \$546,000	\$927,200 - \$1,506,700	\$28,400,000

*Average of \$8-\$13 revenue lost per meter per day, 100 stalls total

†Temporary parklet program start

^Additional time that stalls are not available and use fees are not collected

Over the span of more than two years, it is estimated that approximately \$1 million in parking meter revenue (based on 2019 pre-pandemic parking revenue figures) has been/will be lost to outdoor business activities.

For an estimate of the use fees to be collected in the second year of operation, refer to the below table:

Outdoor Business Activity - Use Fees To Be Collected in Second Year* (Approximate)		
Parklet†^	Sidewalk Café†‡	Both: Parklets + Sidewalk Cafes
\$182,880	\$50,000 - \$75,000	\$232,800 - \$257,880

*Second year is September 2023 - September 2024 (first year use fee is waived)

†\$10.16/sq ft use fee for parklets and sidewalk cafes

^Assuming 180 sq ft per parking stall, 100 stalls total in Downtown,

‡Assuming 150 sq ft for average sidewalk café, 25-50 businesses total

In the second year (September 2023 – September 2024), use fees will be collected, and will range from \$232,800 - \$257,880. On average, \$292,000 - \$474,500 of annual meter revenue (based on 2019 parking revenue figures) is lost per year (average of \$8-\$13 revenue per meter per day, 100 stalls total), with an ongoing loss of about \$59,000 - \$215,000 per year.

On balance, that amount is likely offset by the additional sales tax generated from business activity taking place on those parklets over the replaced parking stalls, specifically for restaurant businesses. Restaurants who have applied for the Temporary Outdoor Business Activity Program collectively generated more than \$28,000,000 in gross receipts in the 2020 calendar year, and the increase in outdoor dining space will provide the City increased sales tax revenue in future years.

Although a significant sum of parking revenue is lost, which is notable as the Parking Fund is currently subsidized by the General Fund, the Outdoor Business Activity Program would advance the economic recovery of the City following pandemic losses, and supports the City's Strategic Priority of Economic Vitality. A vibrant Downtown promotes more business and sales tax activity, and the proposed Program provides additional outdoor amenity space for customers, workers, and visitors alike. The additional parklet square footage is estimated to add approximately 18,000 square feet of new retail space, and has the potential to increase labor and employment opportunities for workers due to the expanded business activity with the addition of more commercial space in our City.

ENVIRONMENTAL REVIEW

This study session does not constitute a project under the California Environmental Quality Act (CEQA) as defined in CEQA Guidelines section 15378, because it has no potential for resulting in either a direct or reasonable foreseeable indirect physical change in the environment. The proposed Outdoor Business Activity Program discussed as part of this study session is a project that is categorically exempt under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, Section 15304 (e) (Class 4. Minor Alterations to Land) because the project entails only minor public alterations in the condition of land and having no negligible or no permanent effect on the environment. Similarly, it is exempt under CEQA Guidelines, Section 15301 (Class 1. Existing Facilities) because it would involve the operation, permitting, or minor alteration of existing public facilities or topographical features, involving negligible or no expansion of existing or former use.

In addition, the proposed activity falls within the scope of CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question, namely installation (in some instances) of platform structures over existing paved areas to facilitate outdoor business activity, will have a significant effect on the environment.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

ALTERNATIVES

The Study Session is an opportunity for City Councilmembers to provide individual input that will inform the Outdoor Business Activity Program; no final action will occur at the Study Session.

ATTACHMENTS

Attachment A – Outdoor Business Activity Guidelines dated May 9, 2022

Attachment B – Outdoor Business Activity Program handout

Attachment C – Matrix Parklet Program Fee Analysis dated March 30, 2022

REPORT PREPARED BY:

Simon Vuong, Economic Development Manager

svuong@redwoodcity.org

(650) 780-7204

APPROVED BY:

Alex Khojikian, Assistant City Manager

Melissa Stevenson Diaz, City Manager

APPENDIX E
City of San Mateo Parklet Encroachment Permit Application - February 4, 2022



**CITY OF SAN MATEO PARKLET
ENCROACHMENT PERMIT
APPLICATION**

February 4, 2022

PARKLET ENCROACHMENT PERMIT GENERAL INFORMATION

The intent of the parklet program is to create sidewalk extensions that may be utilized by businesses during operating hours to offer outdoor dining and create economic vitality and vibrancy for residents and visitors. Parklets are a partnership between the City and local businesses to extend the sidewalk by converting parking spaces into an area for residents and visitors to passively recreate.

Things to know before applying:

- The COVID-Temporary Outdoor Dining Encroachment program expires on April 30, 2022.
- Businesses who would like to retain existing parklets after April 30, 2022 must submit a permit application. Please review the full application and Parklet Program Guidelines.
- A Parklet Encroachment Permit is required for parklet within the City right-of-way.
- Permit applicants must pay the Parklet Encroachment Permit Application fee and the Parklet Encroachment Permit fee (which is based on the number of parking spaces used for the parklet installations) and obtain the property owner's signature on the application before a Parklet Encroachment Permit can be issued.
- Proposed parklets may only be installed directly adjacent to the frontage of the business storefront requesting the parklet encroachment permit.
- Proposed parklets will be considered private space under the control of the permit holder/applicants. The permit holder is responsible for securing the parklet, any fixtures and furnishings, and will need to keep the area clean, free of litter, refuse and debris.
- Property owners may not charge rent for the proposed parklet located in the public right-of-way.
- Parklet Encroachment Permits are non-transferable. If there is a transfer of business owners, the new business owner will need to reapply for the parklet.
- Expiration date notwithstanding, the Parklet Encroachment Permit can be revoked in the event of noncompliance with a permit condition or not renewed by the City at any time.
- The permittee is responsible for removal of the parklet and restoration of the public right-of-way if and when the permit is revoked or not renewed. If the permittee fails to remove the parklet and restore the public right-of-way, the property owner will be responsible.

- Applicant is responsible for a one-time application fee, an annual parklet encroachment permit fee (based on the number of parking stalls), and a Fire inspection fee. The rates are defined in the [City of San Mateo Fee Schedule](#) and the [San Mateo Consolidated Fire Fee Schedule](#) and are updated annually.

Parklet encroachment application must be submitted before the construction of any new parklet or the modification of any existing parklet permitted under the Temporary Outdoor Dining Encroachment Program. After April 30, 2022, businesses without a Parklet Encroachment Permit will need to remove their existing installations and return the parking spaces to their previous condition.

PARKLET ENCROACHMENT APPLICATION DETAIL

Step 1: Read City of San Mateo [Parklet Program Guidelines](#)

Step 2: Propose and submit Parklet Encroachment Permit Application with the following documents via email to jchen@cityofsanmateo.org in **one pdf file**.

Parklet Encroachment Permit Application Cover (See Page 5-6)

Proposed Parklet Details (See Page 7)

Insurance Documents – please follow City of San Mateo Standards for Insurance (See Pages 11-13)

Proposed Parklet Plan Set with the following **required** information

The City recommends that plans are prepared by licensed architect or engineer.

- a. Site plan shall be **drawn to scale** on 11 x17 tabloid paper, include all pertinent dimensions and the following information:
 1. Location of the business frontage
 2. Dimensions of the parklet platform
 3. ADA accessibility measurements
 4. Set-backs from adjacent parking spaces and the adjacent traffic lane
 5. Show dimension of existing parking stalls and travel lanes in immediate area and in the proposed parklet
 6. Locations of traffic protection improvements such as wheel stops and posts or bollards
 7. Location of public utilities including any manhole covers, gutter drains, fire hydrants, and etc.
 8. Any adjacent installations on the sidewalk including parking meters, utility boxes, street signs, etc.
- b. Elevation drawing showing the following information:
 1. Height and design of platform railings/guards or edge buffers
 2. Storm water drainage
 3. Cross-section drawing of parklet
- c. Photos: The application should include at least 3 photos showing existing built parklet, if applicable, the proposed parking space(s) converted into a parklet, adjacent sidewalk and store frontage

- d. Materials palette showing the following information:
 - 1. Proposed materials for platform
 - 2. Proposed materials for railings or edge buffers
 - 3. Proposed furnishings

STEP 3: Staff will determine if the application is complete. If the application is not complete, the application will be deemed incomplete and returned to the applicant. The application will need to resubmit the full application with the missing documents or elements.

STEP 4: Once the application is deemed complete, the Applicant will be responsible for payment of one-time permit application fee to the City of San Mateo once the application is deemed complete, the annual permit encroachment fee which is based on the number of parking spaces included in the parklet, as well as an inspection fee from San Mateo Consolidated Fire as defined in the [SMCF Fee Schedule](#). The City permit application and annual permit encroachment fees are updated in the [City's Comprehensive Fee Schedule](#).

STEP 5: Review of Application. The City of San Mateo will review the full application and provide feedback on any design modifications required.

STEP 6: Permit Issuance: After the Parklet Encroachment Permit has been issued, the applicant may begin construction. The permit shall expire if work on the encroachment described within does not commence within 12 months from the date of approval. The final issued encroachment permit will include the permit number, issue date, project address, final approved parklet plans, scope of work, applicant contact information, and permit expiration date.

STEP 7: Inspections. Before the parklet can be occupied by the public for business use, the City will need to complete its inspections of the parklet. Applicant will need to contact the City to schedule final inspections from Public Works, San Mateo Consolidated Fire, and Building Department.

CITY OF SAN MATEO
PARKLET ENCROACHMENT APPLICATION COVER
330 W. 20TH AVE SAN MATEO, CA 94403
(Page 1/2)

APPLICANT INFORMATION

Business Name: _____

Business Address: _____

Valid City of San Mateo Business License Number: _____

Business Owner Name: _____

Contact Number _____

Alternate Contact Number _____

Email _____

Mailing address if different than Business Address:

I hereby certify that I am the business owner at the property described and I approve of the action requested herein.

As the applicant, I agree to abide by the Parklet Guidelines, insurance requirements, and Public Works Parklet Encroachment Permit Conditions.

Print _____ Signature _____ Date _____

CITY OF SAN MATEO
PARKLET ENCROACHMENT APPLICATION COVER
330 W. 20TH AVE SAN MATEO, CA 94403
(page 2/2)

PROPERTY OWNER INFORMATION

Property Owner Name/Contact: _____

Property Owner Address: _____

Property Owner Phone: _____

Property Owner Email: _____

Business Name of Parklet: _____

Business Address of Parklet: _____

I am the property owner for the Permittee's business and I approve of the submittal of this application. I have read the Parklet Encroachment Permit Guidelines and Conditions of Approval. I understand that, if the Permittee fails to remove the parklet at the City's request, it will be my responsibility to remove the parklet.

Print _____ Signature _____ Date _____

**CITY OF SAN MATEO
PROPOSED PARKLET DETAILS
330 W. 20TH AVE SAN MATEO, CA 94403**

1. Number of parking spaces requested: _____
(circle one) Perpendicular/Angled or Parallel
2. Do these parking spaces expand beyond your business' frontage? Yes /No
3. Color of Curb – White, Red, Blue, Green, None _____
4. Is the proposed parklet adjacent to a bike lane? Yes / No
5. What is the proposed use of the parklet?

6. Provide the hours of operation for the business: _____
7. Parklet Designer/Architect/Engineer/Construction Firm, if known
Name: _____
Title: _____
Firm: _____
Phone Contact: _____
Email Contact: _____

Please attach required parklet plan drawings and submittals to application cover and proposed parklet details.

CITY OF SAN MATEO
PARKLET ENCROACHMENT PERMIT CONDITIONS

1. Annual Renewal Required: Each parklet encroachment permit has a twelve-month term. An annual renewal fee is required and must be paid no later than one (1) year after the final approved permit date. Failure to pay the annual renewal fee will deem the permit expired which will result in the loss of rights to use the parklet in the public right-of-way.
2. Non-Transferrable: The permit is not transferrable in the case of a change in the ownership of the business. If the business ceases to operate for a period of over 30 days, the permit expires.
3. Failure to fully comply with the Parklet Program Guidelines, the City of San Mateo Municipal Code, City of San Mateo insurance requirements, approved construction drawings, the Americans with Disabilities Act, and Public Works Parklet Encroachment Permit Conditions will result in revocation of the permit and removal of the parklet at the business owner's or property owner's expense.
4. Responsible Party: No party other than the Permittee or its agent is authorized to work under this permit.
5. Acceptance of Provisions: Permittee understands and agrees that commencement of work authorized by the issuance of this permit shall constitute acceptance of the provisions of this permit and all attachments.
6. Allowed Hours of Work: Before starting work under the Encroachment Permit, the Permittee shall notify the City seventy-two (72) hours prior to initial start of work via email at pwinspection@cityofsanmateo.org, with the title of the email as follows, "(INSERT PERMIT NUMBER) Notice to Start". When work has been interrupted for more than five (5) working days, an additional 24-hour notification is required via email to pwinspection@cityofsanmateo.org before restarting work unless a pre-arranged agreement has been made with the City. Construction activities are restricted to weekdays between 7:30 a.m. and 4:30 p.m. in the public right-of-way but may vary depending on scope and location. No set up or take down activities are allowed outside of these hours. Requests for work hours outside of the approved hours require submittal of a Work Hours Waiver Form. Materials delivery to and from the site are prohibited between the hours of 7:30 a.m. and 8:30 a.m., and 4:00 p.m. and 5:30 p.m. Haul routes are only allowed on the City Approved Truck Route Map (dated 2008).

7. Limits of Construction: It is understood that the limits of constructing the approved parklet are within the parking space outlined in the application. The Permittee shall be confined to the parking space at all times during the construction of the parklet. If for any reason, the Permittee will need to encroach into the vehicle travel lane and/or sidewalk require any disturbance to the flow of traffic, a traffic control plan will need to be submitted and approved by Public Works before work can continue. Email pwencroachment@cityofsanmateo.org for traffic control plan requirements.
8. Standards of Construction: All work shall be done in accordance with the most current Building Code Standards unless otherwise approved on the plans or in the permit.
9. Inspection and Approval by the City: All work shall be subject to monitoring, inspection, and approval by the City. All work must be inspected by the City prior to public use. The permittee shall request a final inspection and acceptance of the work. Acceptance of work cannot be issued until Public Works Department, Building Division and San Mateo Consolidated Fire have all approve their respective inspections.
10. Stormwater Pollution Prevention Program: Per City of San Mateo Municipal Code Chapter 7.39, Permittee shall implement and maintain measures to keep sediment, washwaters, equipment maintenance products, and other construction related materials debris from entering the storm drainage system. Dumping or discharge into the City's storm drainage system is prohibited. Measures to protect the storm drainage system shall be in place prior to start of work.
11. Making Repairs: In every case, the Permittee shall be responsible for restoring to its former condition as nearly as may be possible any portion of the City right- of-way, which has been damaged or otherwise disturbed by Permittee. The Permittee shall maintain the surface over facilities placed under any permit. If the right-of-way is not restored as herein provided for, and if the City elects to make repairs, permittee agrees by acceptance of permit to bear the cost thereof.
12. Clean Up Right-of-Way: Upon completion of the work, all brush, timber, scraps, material, etc., shall be entirely removed and the right-of-way shall be left in as presentable a condition as existed before work started.
13. Cost of Work: Unless otherwise stated on the permit or other separate written agreement, all costs incurred for work within the City right-of-way pursuant to this Encroachment Permit shall be borne by the Permittee, and Permittee hereby waives all claims for indemnification or contribution from the City for such work.

14. Maintenance of Right-of-Way: The Permittee agrees, by acceptance of a permit, to properly maintain any encroachment into the public right-of-way. This will require inspection and repair of any damage to City facilities resulting from the encroachment.
15. Future Moving of Installation: If the Encroachment Permit was issued at the request of the Permittee, it is understood that whenever Public Utilities or City construction, reconstruction or maintenance work in the public right-of-way requires the installation of the parklet to be moved, adjusted or relocated, the Permittee, at his/her sole expense, upon request of the of the Public Utilities or Public Works, shall comply with said request.
16. Utilization of Public Parking: By acceptance of permit, the Permittee agrees to pay for any additional utilization of any metered parking spaces for the use of debris boxes, shipping containers, storage of materials, prolonged parking of construction-related vehicles, or any usage of a metered parking space related to the encroachment permit, for as long as the parking spaces are not available for public use outside of the approved parklet footprint. The fees shall be based on the current fee schedule. For non-metered public parking spaces utilized during construction, the Permittee shall place temporary "No Parking" signs. These signs are available for purchase through the City's Public Works Department.
17. Indemnity: Permittee agrees to hold harmless and indemnify CITY, its elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of Permittee's activity and use of the public right-of-way, except for those claims arising out of CITY's sole negligence or willful misconduct. Permittee agrees to defend CITY, its elected and appointed officials, employees, and agents against any such claims.
18. Insurance: Prior to permit issuance, Permittee agrees to provide the required insurance described in these Guidelines.
19. Parklet Removal: Parklet permit will be revoked if/when the business affiliated with the permit is sold or closed for longer than 30 days. If the parklet is not removed by 30 days after the close of operations the City has the right to remove the parklet and dispose of the materials and charge the permittee and/or property owner for the expense.

**CITY OF SAN MATEO
STANDARDS FOR INSURANCE
PARKLET ENCROACHMENT PERMIT**

Permittee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with Permittee's operation and use of the public right-of-way. The cost of such insurance shall be borne by Permittee.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including liquor liability coverage, products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

Workers' Compensation: Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. (for Applicants with employees).

Property Insurance: Property insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If Permittee maintains broader coverage and/or higher limits than the minimums shown above, the City of San Mateo requires and shall be entitled to the broader coverage and/or higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of San Mateo.

OTHER INSURANCE PROVISIONS:

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its elected and appointed officials, employees, and agents, are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or

operations performed by or on behalf of the permittee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Permittee's insurance (at least as broad as ISO Form CG 20 10).

Primary Coverage

For any claims related to this permit, the Permittee's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by City, its elected or appointed officials, employees, or agents shall be excess of the Permittee's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

Waiver of Subrogation

Permittee hereby grants to City a waiver of any right to subrogation which any insurer of said permittee may acquire against City by virtue of the payment of any loss under such insurance. Permittee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. At the option of the City, either: the permittee shall obtain coverage to reduce or eliminate such self-insured retentions as respects the City, its elected and appointed officials, employees, and agents; or the permittee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Verification of Coverage

Permittee shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before

permitted activities begin. However, failure to obtain the required documents prior to the work beginning shall not waive the permittee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

APPENDIX F

Burlingame Outdoor Dining Brochure

Application Steps & Requirements

1. Contact Jerred Cayabyab, Engineering Technician, at (650) 558-7272 for review and approval of the tables and chairs arrangement.
2. Fill out a Special Encroachment Permit Application Form including the following:
 - a. Business License Certificate
 - b. Insurance Certificate with a general liability of \$1,000,000 per occurrence and an Endorsement stating the following: "The City of Burlingame, its officers, employees, and agents are named as additional insured." (Standards For Insurance can also be found on our website)
 - c. Submit a detailed site plan including dimensions, locations, and heights of the encroachment (ex. tables, chairs, planters, umbrellas, and heaters) per the guidelines
3. Pay a one-time application fee based on the current fee schedule (\$1,625 for fiscal year 21-22).
4. An engineering staff will review and, if approved, will prepare the agreement for the business owner's signature.
5. Engineering staff will finalize the permit and return an executed copy.
6. Per the approved agreement, the applicant is responsible to remit updated insurance on an annual basis or when the insurance expires.

NOTE: Agreement can be revoked and you will be fined if insurance updates are not received before expiration and if there is noncompliance with the allowable tables and chairs.

What is it?

The City of Burlingame encourages local restaurants to take advantage of the public sidewalk space for outdoor dining and the temporary installation of tables, chairs, umbrellas, heat lamps, planters, or other movable fixtures during business hours.

Restaurants and cafes, with a Special Encroachment Permit issued by the City, can provide customers with outdoor seating that helps enliven the sidewalk environment and shopping experience. The City has established a Special Encroachment Permit to allow use of the sidewalk in the City's right-of-way as long as certain guidelines have been achieved. This is necessary to balance safety and accessibility.

How to Apply?

Application for sidewalk dining can be started online at the following link https://www.burlingame.org/departments/public_works/special_encroachment_permit.php or in person at the Public Works, Engineering Department.

Revision Date: 1/20/2022

Outdoor Dining

Requirements for sidewalk, tables, and chairs in the public right-of-way

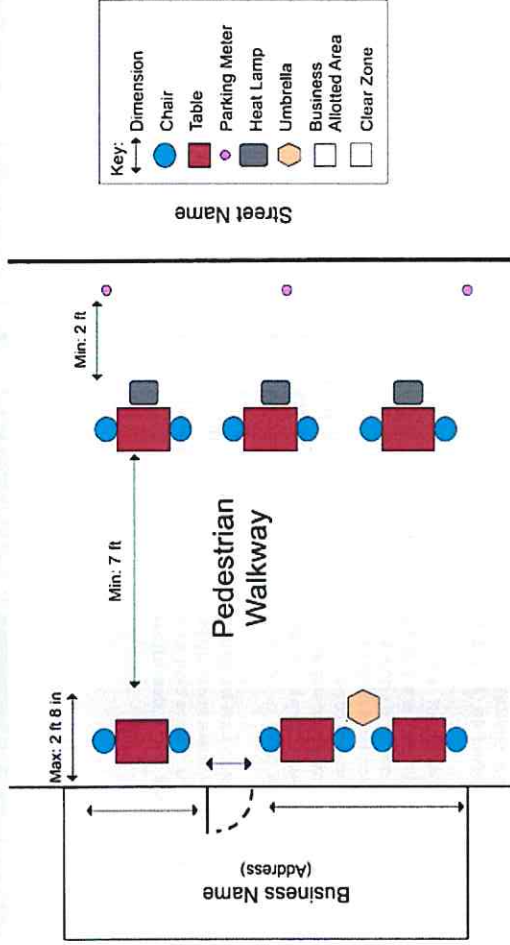


Sidewalk encroachment is regulated by Burlingame Municipal Code 12.10.020 (Ord. 1053 § 1, (1975); Ord. 1171 § 2, (1980))



Public Works - Engineering Department
501 Primrose Road
Burlingame, CA 94010-3997
TEL: (650) 558-7230
FAX: (650) 685-9310
Hours: Monday through Friday 8:00 AM—5:00 PM, except official holidays
www.burlingame.org

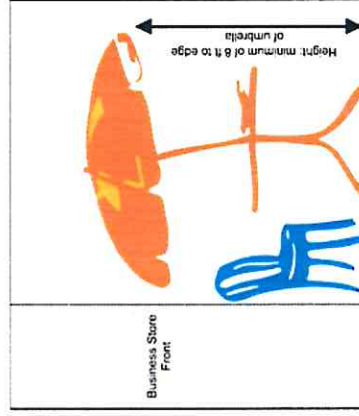
Example Overview Diagram



Guidelines

- The sidewalk in front of the business must be wide enough such that a minimum of seven feet (7') of pedestrian clearance can be established (this 7' of clearance must be free of all obstructions).
- Placement of tables and chairs, including any vertical dividers, sun shades, or patio heaters, must not in any way interfere with curb ramps and driveways, nor prevent access to the building or any fire escape.
- For tables and chairs placement adjacent to the parking stalls, a two-foot clearance for parking access must be maintained. Chairs along curb area must be facing parallel with the curb.
- Placement of tables and chairs on the sidewalk cannot encroach into the adjacent property without a temporary approval form and additional insurance coverage.
- Umbrella or heat lamp base are not to extend into the 7' clear zone for pedestrians.
- Umbrellas must provide a minimum of 8' vertical clearance above ground to avoid head impact.
- Hours of operation for Sidewalk Dining shall not begin prior to 7:00 a.m. nor extend later than posted closing business hours.
- Smoking and e-cigarettes are prohibited for all outdoor dining.

Example Street View



Additional Notes:

- Anything off of Burlingame Ave. only allows furniture against the side of the building and must have a minimum of 5' clear zone.
- The type and size of furniture are up to the business owners as long as our guidelines are met.
- Chairs always must be parallel to the street.
- Agreed diagram with the list of number of chairs, tables, heaters, etc. on the agreement must be posted at the business site for employees to follow.