



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

---

**DATE:** March 14, 2023

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Matthew Lee, Public Works Director

**SUBJECT:** Adopt Ordinance Amending Title 8 (Streets, Sidewalks, and Rights-of-Way) to Add Regulations Relating to Parklets

**BACKGROUND:** On March 20, 2020, in response to the COVID-19 pandemic, the City Council approved a proclamation acknowledging the existence of a local emergency and authorized the City Manager as the Director of Emergency Services to undertake emergency measures on behalf of the City. The Proclamation conferred on the Director of Emergency Services certain rights, duties, and obligations to issue any order or regulation necessary to enforce Federal, State, County, and/or local requirements, orders, and/or regulations, including any orders and regulations necessary to provide for the protection of life and property. There were significant concerns about restaurants going out of business when their indoor dining was limited. On June 5, 2020, the City Manager, acting as the Director of Emergency Services, issued Executive Order No. 20-01 allowing temporary outdoor operations on public and private property. On August 28, 2020, the City Manager issued Executive Order No. 20-02 outlining a revised program for temporary outdoor business regulations in San Bruno for those for businesses that were not allowed to operate indoor dining or have restrictions on indoor capacity/operations during the pandemic.

The outdoor business program, as it applies to restaurants, has been well received by the community, including by both residents and businesses, and has added vibrancy to the City's downtown area. Given the success of this program, staff has initiated the process to transition the temporary outdoor business registration process from an emergency response into a longer-term outdoor dining program beyond the pandemic. This also aligns to feedback that was received during community workshops related to the Downtown Streetscape Plan. Parklets and outdoor dining were rated as highly desirable additions to the downtown area.

A "parklet" is a temporary sidewalk extension installed on public parking space(s) within the public right-of-way, that provides more space and amenities for outdoor dining operated and maintained by the business establishment conducting the outdoor dining. The amenities may include tables, chairs, umbrellas, and other items for the consumption of food and beverages served by the restaurant or food or beverage service use. Parklets are typically installed within the parking lane in commercial districts. The Public Works Department initiated development of these regulations and collaborated with representatives from the Planning Division, Building Division, Fire and Police Departments to draft parklet regulations. It was in the public interest for the City to establish reasonable, uniform and comprehensive regulations of parklets that could be established within the City's public rights-of-way on San Mateo Avenue in the downtown through the establishment of parklet regulations and an associated parklet permit program.

On September 14, 2021, and January 24, 2023, the City Council conducted study sessions regarding the parklet program. The City Council reviewed the draft regulations, permit processes, and fees and provided feedback on topics including the parklet design elements and criteria, fees, and the program approval process. Specifically, the City Council requested that the Parklet Permit application fees be set at a level below that for full cost recovery. This would provide an economic incentive to restaurant or food beverage service uses to establish parklets to add vitality in the downtown. Based on City Council feedback, the regulations and proposed permit fees were revised.

On February 28, 2023, staff returned the item and proposed for City Council to waive the Parklet Permit application fees but retain the encroachment permit, revocable encroachment permit and annual use of space fees as proposed, thereby reducing the overall cost of the parklet fees over a 2 year period from approximately \$7,200 to \$5,300, as presented in greater detail in Table 1:

<b>Table 1: Proposed San Bruno Parklet Fees</b>	
Parklet Permit Fee	\$0
Encroachment Permit	\$350
Revocable Encroachment Permit	\$615
Annual Use of Space Fee Year 1	\$2,185
Annual Use of Space Fee Year 2	\$2,185
<b>Total Fees for Permit + 2 years Use</b>	<b>\$5,335</b>

The encroachment permit and revocable encroachment permit fees are already established in the FY 2022-23 master fee schedule. The annual use of space fee and permit appeal fee of \$236 will take effect upon the effective date of the ordinance. This estimated cost does not include any required building permit fees, which are calculated based on the project valuation. There may also be costs associated with insurance requirements and a security deposit which are standard requirements for encroachment permits. Additionally, a long-term security deposit will be collected to offset the cost of removing the parklet should it become abandoned. The long-term security deposit would be returned upon permanent removal of the parklet.

On February 28, 2023, the City Council introduced, read by title only, and waived further reading of an ordinance amending Title 8 (Streets, Sidewalks, and Rights-of-Way) to add regulations relating to parklets; adopted a resolution adopting the San Mateo Avenue parklet program regulations; and held public hearing to adopt a resolution adding fees related to parklets to the master fee schedule.

The ordinance is being returned for consideration for adoption.

**DISCUSSION:** The ordinance, if adopted, along with the adopted parklet regulations and parklet permit program provide businesses an opportunity to provide outdoor dining in the public right-of-way beyond the pandemic through the review and issuance of permits as provided for in Title 8 (Streets, Sidewalks, and Rights-of-Way) of the Municipal Code. All parklets will require a Parklet Permit. As a condition of approval of an approved Parklet Permit, an Encroachment Permit would be issued by the Public Works Department for the construction of the parklet and a Revocable Encroachment Permit to allow for the parklet to remain in the public right-of-way. Depending on the construction design proposed, a Building Permit may also need to be issued,

subject to the requirements of the California Building Code and Fire Code.

The ordinance recommended for adoption is provided as Attachment 1. If adopted, the ordinance will go into effect 30 days after adoption. Legal noticing was published as required.

**FISCAL IMPACT:** There is no fiscal impact from the adoption of the ordinance.

**ENVIRONMENTAL IMPACT:** This project is categorically exempt from the California Environmental Quality Act. Upon review of the California Environmental Quality Act and CEQA Guidelines, staff finds and recommends that the Council find the project exempt for the following reasons: 1) This project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3) because there is not a possibility that the ordinance may have a significant effect on the environment. 2) This project is categorically exempt under CEQA Guidelines Section 15301 (Existing Facilities) given that it would result in only minor alterations of existing public or private facilities (e.g., alterations to streets, sidewalks, and parking facilities) and negligible expansion of existing uses (parklets expand on outdoor dining activities already allowed in the City). 3) This project is categorically exempt under CEQA Guidelines Section 15311 (Accessory Structures) given that it would only allow for the construction or placement of minor structures accessory to existing commercial facilities (parklets would only be allowed in association with a “bona fide public eating place”). Further, none of the exceptions set forth in Sec. 15300.2 apply (i.e., not in a particularly sensitive environment, the cumulative impact of the project is not significant, there is no reasonable possibility that the project will have a significant impact due to usual circumstances, impact scenic highways, the project would not impact a hazardous waste site, does not result in a substantial adverse change in the significance of a historic resource).

**RECOMMENDATION:** Adopt ordinance amending Title 8 (Streets, Sidewalks, and Rights-of-Way) to add regulations relating to parklets.

**ALTERNATIVES:** Do not adopt the ordinance, which would result in parklets not being a permissible use of public right-of-way.

**ATTACHMENTS:**

1. Ordinance