



**City of Palo Alto**  
**City Council Staff Report**

**(ID # 11439)**

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**Report Type: Action Items**

**Meeting Date: 6/23/2020**

**Summary Title: Adoption of Urgency Interim Ordinance Regarding Outdoor Dining and Retail**

**Title: Adoption of an Urgency Interim Ordinance Temporarily Allowing Expansion of Outdoor Dining, Retail and Other Activities on Public and Private Property, and Relaxing Regulations Regarding Onsite Parking, On-sale and Consumption of Alcohol, Design/Architectural Review, and Permit Fees to Facilitate Such Outdoor use; and Adoption of a Resolution Authorizing Temporary Street Closures of California Avenue, University Avenue and Adjacent Downtown Blocks, and Approving a Temporary Pilot Parklet Program Including Standards and Requirements**

**From: City Manager**

**Lead Department: Planning and Development Services**

**Recommendation**

Staff recommend that the Council:

- A. Adopt an Interim Urgency Ordinance (Attachment A) Temporarily Allowing Expansion of Outdoor Dining, Retail, and Other Activities on Public and Private Property and Relaxing Regulations Regarding Onsite Parking, On-Sale and Consumption of Alcohol, Design/Architectural Review, and Permit Fees, All to Facilitate Such Outdoor Use During the COVID-19 State of Emergency, With the Ordinance to Take Effect Immediately Upon Adoption; and
- B. Adopt a Resolution (Attachment B) Temporarily Closing Portions of California Avenue and University Avenue and Certain Downtown Streets Intersecting University Avenue Pursuant to California Vehicle Code Section 21101 and Approving a Pilot Parklet Demonstration Program Including Parklet Design Requirements, All to Facilitate Outdoor Dining and Retail.

## **Executive Summary**

On June 8, 2020, the Palo Alto City Council held a study session to discuss how the City might facilitate and enhance opportunities for outdoor dining and outdoor retail throughout the City of Palo Alto during the Shelter in Place period.<sup>1</sup> At the meeting, Council members provided feedback to staff and broadly expressed support for the proposals in the staff report.<sup>2</sup>

This report describes the proposals which would be implemented through adoption of the ordinance and resolution. The programmatic and policy proposals are summarized in a table in Attachment C. The proposed ordinance and resolution cover such topics as:

- Sidewalk Dining
- Outdoor Retail Display and Sales Activities
- Alcohol Consumption
- Private Parking Lots
- Street Closures
- Parklets

The proposed ordinance and resolution include additional topics that, though not explicitly discussed during the June 8 Study Session, further policy objectives aligned with the policies the Council did discuss. They further the overall objectives of ensuring Palo Alto's business districts remain vibrant, that small businesses remain able to operate, and preventing further erosion of the local tax base.

These additional proposals include:

- Allowing Dining, Retail, and Alcohol Consumption in City-Owned Public Parking Lots
- Allowing Personal Services, Indoor Recreation, and Other Uses to be Permitted Outdoors<sup>3</sup>
- Alcohol Consumption with a Meal in Downtown Plazas (Lytton and Cogswell)

By taking action to adopt the resolution and ordinance, the Council will enable these programs and policies to be fully implemented. The proposed temporary provisions will expire at the end of calendar year 2020 or the local proclamation of emergency, whichever is later.

## **Background**

On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency due to the threat of Coronavirus Disease 2019 (COVID-19). On March 12, 2020, because of the

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<sup>1</sup> Staff report from 6-8-20 Council meeting:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=65824.82&BlobID=77068>

<sup>2</sup> Draft minutes from 6-8-20 Council meeting: <https://www.cityofpaloalto.org/civicax/filebank/documents/77236>

<sup>3</sup> These uses would not be allowed to occur within the City until the County Health Order allows these activities to occur or these businesses to resume services.

escalating increase in cases and community spread of COVID-19 in Santa Clara County, City Manager Ed Shikada, acting as the Director of Emergency Services, issued a Proclamation of Local Emergency. The City Council ratified the issuance of the proclamation on March 16, 2020. Also, on March 16, 2020, the public health officers for the six Bay Area counties, including Santa Clara County, took the unprecedented and dramatic step of issuing “shelter-in-place” orders directing county residents to shelter at home beginning March 17 (the SIP Order).

The SIP Order limited activity, travel, and business functions to only the most essential needs. The Order required all businesses other than “essential businesses,” as defined, to cease activities at facilities located in the county. Since that time, the County has updated the SIP Order, with the most recent update taking effect on June 5, 2020 at 12:01 am. This update allowed several businesses and services to resume, including outdoor dining and in-person, indoor retail sales. These services are subject to certain restrictions identified in Appendix C-1 of the updated SIP Order.

On June 8, 2020, the Palo Alto City Council held a study session to discuss how the City might facilitate and enhance opportunities for outdoor dining and outdoor retail throughout the City of Palo Alto. At the meeting, Council members provided feedback to staff and broadly expressed support for the proposals put forward in the staff report. Through this report and accompanying ordinance and resolution, staff are responding to the feedback and providing legislation for the Council’s consideration and action.

## **Discussion**

### Proposed Ordinance

The proposed ordinance is an interim urgency ordinance. The ordinance will become effective upon adoption if four-fifths (4/5) of the Council members present vote to approve the ordinance.

The ordinance (Attachment A,; summarized in Attachment C) proposes the following:

- Sidewalk and Street Dining – This action modifies the existing encroachment permit program by temporarily waiving fees and architectural review for sidewalk encroachment permits; these would be offered under the “Summer Streets Encroachment Permit” Program. Outdoor dining would also be allowed on closed streets with a Summer Streets Encroachment Permit.
- Outdoor Retail Display and Sales Activities – Temporarily allows retailers to apply for Summer Streets Encroachment Permits to display merchandise on sidewalks and closed streets. Presently, the Palo Alto Municipal Code prohibits the display of any merchandise on public sidewalks, except flowers and plants.

- Private Parking Lots – The ordinance temporarily allows up to 50% of the parking spaces in a private parking lot to be used for a combination of outdoor retail and/or outdoor dining. The ordinance temporarily suspends parking requirements and allows, with staff review, for the conversion of the outdoor space to restaurant seating or merchandise display. The space will be reviewed by staff to ensure that pedestrian and vehicular circulation are maintained, that safety of patrons is prioritized, that accessible spaces remain, and that the retail and/or dining areas are clearly demarcated and buffered. For small parking lots, defined as lots that contain 10 or fewer spaces, up to 100% of the lot may be used for outdoor retail and/or dining. This allowance recognizes the limited dimensions of small parking lots and the challenges that may arise from trying to accommodate both vehicles while seating diners and/or spacing merchandise in a socially distanced manner.
- Other Private Property Areas – The ordinance would temporarily allow the use of other outdoor areas on an eating/retail establishment’s site (i.e., landscaped areas) to be used for outdoor dining and retail.
- Alcohol Consumption – The proposed ordinance allows an establishment with a valid Alcoholic Beverage Control (ABC) license for on-sale consumption of alcohol, and who possesses a valid conditional use permit (CUP) or other locally required approval, to serve alcohol for on-site consumption in any expanded outdoor seating areas, as allowed by ABC regulations and the County Health Order. If, for example, a restaurant obtained a Summer Streets Encroachment Permit to place tables and chairs in a closed portion of California Avenue, that business can serve alcoholic beverages to those customers. Prior to serving, the establishment must also obtain authorization from ABC under the “Temporary Catering Authorization” as required by ABC’s fourth order of regulatory relief.

This meets the intention of the proposal brought to Council on June 8<sup>th</sup> in a more elegant way than originally proposed. On June 8, 2020, staff proposed to allow consumption of an alcoholic beverage with a meal in public and allowing expansion of the footprint with the appropriate ABC license. Upon further review of the ABC license and local code, the proposed ordinance allows consumption in public areas associated with an establishment’s expanded footprint (sidewalk dining, parklet, closed public street), while not generally authorizing public consumption

#### Additional Ordinance Items

Staff anticipate that, if the County continues to make progress on preventing and limiting the spread of COVID-19, the Shelter in Place Order may be updated as frequently as every two weeks; including updates during the Council’s summer recess. Staff anticipate that future

orders may take advantage of the region's climate and the decreased risk of spreading COVID-19 outdoors to allow more activities to resume, provided they take place outside. In anticipation of this, staff have included provisions in the ordinance that allow the City Manager to develop rules, guidelines, and regulations to permit certain activities. These activities were not discussed during the June 8, 2020 study session. Nevertheless, they align with Council's objective of taking reasonable measures to ensure the survival of Palo Alto's commercial areas.

Specifically, the proposed ordinance includes the following provisions:

- Allowing Dining, Retail, and Alcohol Consumption in City-Owned Public Parking Lots – Staff currently have no plans or developed program for using public parking lots for these purposes. Should, however, circumstances necessitate temporary closures of all or portions of these lots for these purposes, the City Manager would be so empowered.
- Allowing Personal Services, Indoor Recreation, and Other Uses to be Permitted Outdoors – In anticipation of increasing relaxation of restrictions through updated Public Health Orders, this provision allows the City to develop a program to allow certain activities to occur outdoors in the same types of areas where outdoor dining and retail would be allowed.
- Alcohol Consumption with a Meal in Downtown Plazas (Lytton, Cogswell) – This allows persons to carry meals, including alcoholic beverages, to these public areas to picnic. Should downtown be crowded, this can help visitors and patrons increase social distancing.

### Resolution

The proposed resolution authorizes the City to temporarily and continuously close certain streets in Palo Alto and authorizes a Pilot Parklet Demonstration Project in on-street parking spaces on public streets. While the Palo Alto Municipal Code does allow the City to issue Temporary Street Closure permits for special events, the proposed closures would be for a more extended period than would typically be approved as a special event.

Through this resolution, the Council enables the City to implement street closures on California Avenue, University Avenue, and intersecting streets. The closures can last up through Labor Day (September 7, 2020). While the closures need not endure 24 hours a day from now until Labor Day, the resolution provides the flexibility to close these streets during that time frame to host "Summer Streets." Restaurants and other retailers can, with the appropriate permit, place tables, chairs, merchandise, and associated objects in the closed streets. Working closely with merchants, staff will prepare for, execute, evaluate, and enhance any street closure programs. Through street closures, Palo Alto can help facilitate economic activity in a manner that allows downtown patrons to remain a safer distance from one another.

Beginning Thursday, June 11, 2020, the City closed California Avenue from El Camino Real to

Birch Street to traffic. Restaurants with Summer Street Encroachment Permits placed tables, chairs, and umbrellas in the street and served patrons. The closure, scheduled to last through July 6, 2020 under the temporary street closure permit, has been well-received thus far. The City continues to collaborate with restaurants and retailers monitor the success of the program and make adjustments and enhancements. The resolution will allow the closure to continue after July 6, possibly through Labor Day. Similarly, the City continues to engage downtown stakeholders in conversation regarding piloting street closures in downtown Palo Alto.

By adoption of the resolution the Council would approve implementation of the Pilot Parklet Demonstration Project. A parklet is a seating area constructed in one or more on-street public parking spaces. Parklets can improve the pedestrian environment and allow people to use public space. In response to the COVID-19 pandemic, parklets can provide areas for outdoor dining in an environment where patrons may be less likely to spread or contract COVID-19.

Through the Pilot Parklet Demonstration Project, the City Council allows eligible businesses, which include eating and drinking establishments (e.g. restaurant, wine bar), as well as food-based retail (e.g. coffee shop, ice cream parlor), to apply for a Summer Streets Encroachment Permit to install a parklet.<sup>4</sup> The parklets are temporary, with the permit expiring on December 31, 2020 or when the local emergency expires, whichever occurs latest. Upon expiration or termination of the permit, the parklet must be removed at the expense of the permit holder. Exhibit A of the resolution contains standards and requirements for the parklets. The Director of Public Works and his or her staff will ensure that parklets are proposed in conformance with the rules and installed properly. Any deviation from the proposed standards will be considered by City staff on a case-by-case basis, which may require field visits and submission of additional materials.

The proposed resolution and standards have been developed upon consideration of two parklet prototypes installed in downtown Palo Alto. One prototype is located on University Avenue and the other on Emerson Street. These prototypes, permitted by the Department of Public Works, provided insight into the challenges and opportunities parklets present. Staff propose the standards and other requirements to address the challenges, take advantage of opportunities, and provide applicants with clarity regarding what is required to successfully plan for, install, and operate parklets.

Additionally, the City, with the assistance of a professional architect, is developing two plans for parklets: a plan for angle parking spaces and a plan for parallel parking spaces. These plans should enable a permit holder to easily select the appropriate plan, for a contractor to dimension the plans for the parking spaces immediately adjacent to their storefront and allow

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<sup>4</sup> All activities taking place in parklets, such as eating, drinking, serving alcohol, will occur only if and when Santa Clara County allows those activities to occur.

the plans to be approved more efficiently by the Department of Public Works.

### **Policy Implications**

The proposed ordinance and resolution aim to support the business districts and businesses of Palo Alto. Supporting the businesses ensures Palo Altans can meet their daily needs locally and that Palo Alto remains a vibrant community of choice with a high quality of life. Ensuring that businesses survive the pandemic also supports the local tax base that provides revenues that support local services and infrastructure.

The ordinance and resolution present a number of policy issues that, were the ordinance or resolution permanent, would warrant more prolonged discussion and deliberation before being considered. In essence, though, the ordinance and resolution allow lawfully and routinely permitted activities to be conducted outdoors instead of indoors; in that way these are not radical departures from local norms regarding acceptable activities and businesses. It is the truly extraordinary and unprecedented times that Palo Alto is confronting which require activities to move outside to be conducted more safely. The duration of these programs provides time for the City Council to observe the impacts of these choices, to amend or adjust the programs, to extend them, or to allow them to expire as prescribed. The ordinance and resolution also provide flexibility for staff to make adjustments to the programs within the overall framework Council enables. Staff hope that through these measures the City can accommodate future updates to the Shelter in Place Order.

### **Resource Impact**

The implementation of the ordinance and resolution requires review of permits by staff, inspection of sites, inspection of construction, outreach and communication by staff, closure of streets, and monitoring of outcomes, among other tasks. The City can absorb these activities within the existing budget. Through waiving the fees, the City is forgoing \$2,226 in FY 2021 per each encroachment permit.<sup>5</sup> These fees compensate the City for the staff time required to review and issue encroachment permits. Additionally, the City typically charges \$25 per day for a Parking Space Closure to occupy a public parking space. The City will forgoe this revenue and absorb these costs.

### **Timeline**

The ordinance and resolution require different voting majorities to pass. If passed by a four-fifths (4/5) majority of City Council members present at the meeting, the interim urgency ordinance goes into effect immediately. There will not be a second reading of the ordinance. If passed by a majority of City Council members, the resolution goes into effect immediately. The proposed temporary provisions in both the ordinance and the resolution will expire at the end

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<sup>5</sup> The FY 2020 fee for an encroachment permit is \$2,177.

of calendar year 2020 (December 31, 2020) or at the conclusion of the local proclamation of emergency, whichever is later.

### **Stakeholder Engagement**

The ordinance and resolution reflect immense collaboration between the City, local businesses, and the community at large. Business owners and managers have engaged with City staff through roundtable discussions, phone calls, e-mail correspondence, and via face-to-face visits by staff walking door-to-door. Surveys from partner organizations such as the Chamber of Commerce have also provided valuable insight into how the City can best collaborate with local businesses. Hundreds of community members have written to the City Council and provided public comment regarding these ideas, particularly street closures.

As the programs continue and applications for Summer Streets Encroachment Permits and other permits increase, staff will continue to collaborate with applicants. Through our combined effort we hope to realize positive outcomes for businesses, visitors, and residents.

### **Environmental Review (If Applicable)**

The proposed actions are statutorily exempt under California Environmental Quality Act (CEQA) section 20180(b)(4) (specific actions necessary to prevent or mitigate an emergency) and are categorically exempt from CEQA under CEQA Guidelines 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment).

### **Attachments:**

**Attachment A - Interim Urgency Ordinance**

**Attachment B - Resolution**

**Attachment C - Summary of Legislative Actions**

Ordinance No. \_\_\_\_\_

Interim Ordinance of the Council of the City of Palo Alto Temporarily Allowing Expansion of Outdoor Dining, Retail and Other Activities on Public and Private Property and Relaxing Regulations Regarding Onsite Parking, On-Sale of Alcohol, Design/Architectural Review, Permit Fees, and Alcohol Consumption in Public Places, All to Facilitate Such Outdoor Use During the COVID-19 State of Emergency, and Declaring the Ordinance to be an Emergency Measure to Take Effect Immediately Upon Adoption

The Council of the City of Palo Alto ORDAINS as follows:

**SECTION 1.** Findings and Declarations. The City Council finds and declares as follows:

A. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency due to the threat of the novel coronavirus disease 2019 (“COVID-19”).

B. On March 12, 2020, due to the escalating local and regional increase in cases and community spread of COVID-19, City Manager Ed Shikada, acting as the Director of Emergency Services, issued a Proclamation of Local Emergency. The City Council ratified the issuance of the proclamation on March 16, 2020.

C. On March 16, 2020, March 31, 2020, and April 29, 2020, the Santa Clara County Health Officer issued orders directing all individuals living in the County to continue to shelter in their place of residence subject to certain exceptions. The original and subsequent orders limited activity, travel, and business functions to only the most essential needs, and required all businesses other than “essential businesses”, as defined, to cease activities at facilities located in the County, impacting the revenue and economic stability of many Palo Alto businesses.

D. The directives from the State and the County necessary to contain the spread of COVID-19 have drastically affected the local economy and resulted in serious negative impacts to local businesses, including substantial loss of business income and compensable work hours and wages for individual workers.

E. On June 1, 2020, the Santa Clara County Health Officer issued an order effective June 5, 2020 authorizing outdoor dining at restaurants and in-store retail, with the implementation of and adherence to specified public health protocols.

F. The State, through the California Department of Public Health and Cal OSHA, has issued COVID-19 Industry Guidance: Dine-In Restaurants, which prioritizes outdoor seating and curbside pick-up to minimize the cross-flow of air for people in enclosed environments.

G. Many businesses have already closed permanently, and others are barely surviving. Vibrant commercial centers are essential to Palo Alto. These businesses themselves are an essential part of the community: they provide jobs for Palo Alto workers, provide goods and services to residents and the larger community; they are part of the backbone to the fiscal health of individuals, the city, county and the region.

H. It is vital to create opportunities to help our community rebuild and emerge, to resume some aspects of daily life, to the extent feasible and consistent with health and safety, during this continuing public health emergency. Temporary measures to reduce regulatory requirements and facilitate business activity in outdoor areas will provide critical assistance to businesses to allow them to reopen and help mitigate the potential public health impacts of reopening.

I. Epidemiologists have warned that COVID-19 may be present in our communities for many months or even years, requiring ongoing adjustments to daily life and economic activity. The need for physical distancing will likely persist into 2021, and possibly beyond that.

J. An urgency ordinance that is effective immediately is necessary to address the immediate threat to public peace, health, safety and welfare of residents, workers and local businesses related to the significant economic impacts of the COVID-19 pandemic, to support businesses to be successful in their reopening in compliance with public health criteria, and to support compliance with public health orders and criteria related to COVID-19 to mitigate the spread of COVID-19 in Palo Alto and the broader community.

K. Under Palo Alto Municipal Code Section 2.04.270(d), a four-fifths of the Council members present is required to pass this Ordinance.

## **SECTION 2. City Manager Authorization**

The City Manager is hereby authorized to use his or her authority as Director of Emergency Services under Palo Alto Municipal Code (“PAMC”) Section 2.12.060 to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the Emergency for the expanded operation of outdoor eating areas by eating, drinking and retail establishments (sometimes referred to as “outdoor dining”) and outdoor retail sales and display of wares, as described at the City Council meetings on June 8, 2020 and June 23, 2020, not in conflict with this Ordinance. This authorization includes the authority vested in the City Manager or his or her designee(s) to promulgate guidelines and implementing regulations for the uses and programs described in this Ordinance.

## **SECTION 3. Fee Waivers for Encroachment Permits and Parking Space Closures**

- A. The permit fees set forth in the Municipal Fee Schedule are temporarily waived for applications for encroachment permits under Palo Alto Municipal Code Section 12.12.010 and Section 12.12.020, as modified by this Ordinance, to place structures and equipment in the public right-of-way (including closed streets and sidewalks) for purposes of outdoor dining and outdoor retail sales and display of wares.
- B. The parking space closure fee in the Municipal Fee Schedule collected by the Department of Planning and Development Services is temporarily waived for the use of a parking space(s) on-street or in a parking lot for purposes of outdoor dining and

outdoor retail sales and display of wares as authorized through an encroachment permit, license, or agreement with the City.

**SECTION 4. Modified Review Process for Commercial Sidewalk Encroachment Permits**

Notwithstanding contrary provisions of PAMC Section 12.12.020, permits may be granted for commercial sidewalk encroachments for outdoor retail sales and display areas and outdoor eating areas. Permits for these purposes shall not be required to undergo and complete design review by the Planning Department described in subsection (d) of Section 12.12.020. Except as expressly modified herein, the provisions of Section 12.12.020 shall apply to commercial sidewalk encroachments.

**SECTION 5. Eating and Drinking Establishments**

Eating establishments, and drinking establishments when allowed by the County Health Order to operate outdoors, may temporarily relocate some or all of their existing indoor seating capacity to outdoor seating capacity, as follows:

- A. Location. Outdoor eating areas may be placed in one or more of the following areas:
  1. Public streets temporarily closed by the City of Palo Alto, through issuance of an encroachment permit under PAMC Section 12.12.010;
  2. Sidewalks through issuance of an encroachment permit under PAMC Section 12.12.020, as modified by Section 4 of this Ordinance;
  3. In on-street parking spaces approved for use as temporary parklets, in accordance with the Pilot Parklet Demonstration Project approved by Council Resolution No. \_\_\_\_\_;
  4. Surface parking lots that currently provide required onsite parking for the eating/drinking establishment, through issuance of an approval by the Director of Planning, or his or her designee, as described in subsections C and D of this Section, below;
  5. Other outdoor areas on the eating/drinking establishment site not originally permitted for outdoor seating in the establishment's approved site plan or planning entitlement (such as landscaped areas), through issuance of an approval by the Director of Planning, or his or her designee, in accordance with subsections C and D of this Section, below; and
  6. In other areas that the Council identifies by resolution or ordinance.

B. Use of Private Parking Lots – Temporary Reduction of Parking Requirements.

1. Notwithstanding the parking requirements applicable to eating/drinking establishments in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for eating/drinking establishments, an eating/drinking establishment may place outdoor eating areas in its parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles. If the establishment's parking lot has ten or fewer parking spaces, up to 100 percent of the parking lot may be used for outdoor eating, subject to review and approval of the Planning Director or his or her designee.
2. Notwithstanding the parking requirements applicable to shopping centers and their tenant businesses in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for shopping centers or their tenant businesses, a shopping center with an eating/drinking establishment tenant(s) may place outdoor eating areas for such tenant business(es) in the shopping center parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles.

C. Application. An application in a form approved by the Director of Planning shall be submitted to the Planning and Development Services Department to relocate some or all of an eating/drinking establishment's permitted indoor restaurant seating to outdoor seating in privately-owned areas on the eating/drinking establishment site not originally permitted for outdoor eating. The Director of Planning is authorized to establish submittal requirements and procedures. Temporary Use Permits (TUP) under PAMC Section 18.42.050 may be utilized for this purpose. A TUP issued for this purpose may be valid for a specified period longer than 45 days, notwithstanding subsection (d) of Section 18.42.050. The Planning Director may extend a TUP issued prior to the effective date of this Ordinance to be valid beyond 45 days.

D. Seating Layout Review. A Seating Layout Review is required to relocate some or all of an eating/drinking establishment's permitted indoor seating to outdoor seating in privately-owned areas on the eating/drinking establishment site not originally permitted for outdoor eating. The Seating Layout Review shall be conducted by a transportation planner, planner, and/or fire inspector who will review and either approve or require modifications to the proposed outdoor seating layout based on the following criteria:

1. Seating layout does not create a safety risk and adequate pedestrian and vehicular separation is maintained, including with movable barriers as appropriate where outdoor seating is to be placed in parking lots or on-street parking spaces.
2. Seating layout accommodates appropriate vehicle and pedestrian circulation and maintains adequate paths of travel and complies with accessibility requirements of the Americans with Disabilities Act.

3. Any tents must comply with fire codes and Palo Alto Fire Department issued standards for tents, and safety standards set forth by the National Fire Protection Association for fire-resistant tents and must include an affixed manufacturer's label stating the tent meets NFPA requirements. A State Fire Marshal seal on the tent or a certificate is needed to prove treatment.
  4. Any heaters must comply with fire codes.
  5. An adequate and visible barrier is placed that clearly separates the retail area from the parking area and provides sufficient protection for patrons. Adequacy shall be defined in standards and guidelines issued by the Director of Planning.
  6. Other requirements established in the standards and guidelines issued by the Director of Planning.
- E. Fee. No fee will be charged for submittal and review of the Application and for conducting a Seating Layout Review .
- F. Occupancy. Total seating occupancy (including all indoor and outdoor seating) shall not exceed the overall occupancy for which the restaurant is permitted.
- G. Alcohol Service. Establishments that are allowed by the City to serve alcohol for onsite consumption by issuance of a conditional use permit ("CUP") as required by PAMC Section 18.42.090 or as a legal nonconforming use, and that both have an on-sale license from the Department of Alcoholic Beverage Control ("ABC") and are duly authorized by ABC to serve alcohol in outdoor areas, shall be allowed to serve alcohol for onsite consumption in such outdoor areas, notwithstanding any prohibition on outdoor alcohol service or consumption in the PAMC or planning entitlement issued under Title 18 (Zoning) of the PAMC. During the effective period of this Ordinance, establishments that meet the preceding requirements may expand their footprint to outdoor areas without an amendment of the CUP, notwithstanding PAMC Section 18.42.090(c). Outdoor alcohol service shall be in full compliance with ABC regulations, as amended.
- H. No Architectural Review. Notwithstanding PAMC Sections 18.77.077 and 18.76.020, architectural review shall not be required for proposed outdoor eating areas or signage related to such areas during the effective period of this Ordinance.

## **SECTION 6. Retail Establishments**

Retail establishments may temporarily relocate some or all of their existing customer-accessible square footage to outdoor spaces as follows:

- A. Location. Outdoor retail sales and display areas and outdoor eating areas may be placed in one or more of the following areas:

1. Public streets temporarily closed by the City of Palo Alto, through issuance of an encroachment permit under PAMC Section 12.12.010;
2. Sidewalks through issuance of an encroachment permit under PAMC Section 12.12.020, as modified by Section 4 of this Ordinance;
3. Surface parking lots that currently provide required onsite parking for the retail establishment, through issuance of an approval by the Director of Planning, or his or her designee, as described in subsections C and D of this Section, below;
4. Other outdoor areas on the retail establishment site not originally permitted for retail sales and display or dining in the retail establishment's approved site plan or planning entitlement (such as landscaped areas), through issuance of an approval by the Director of Planning or his or her designee in accordance with subsections C and D of this Section, below; and
5. In other areas that the Council identifies by resolution or ordinance.

**B. Use of Private Parking Lots – Temporary Reduction of Parking Requirements.**

1. Notwithstanding the parking requirements applicable to retail establishments in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for retail establishments, a retail establishment may conduct outdoor retail sales and display and may place outdoor eating areas in its parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles. If the establishment's parking lot has ten or fewer parking spaces, up to 100 percent of the parking lot may be used for outdoor eating, subject to review and approval of the Planning Director or his or her designee.
2. Notwithstanding the parking requirements applicable to shopping centers and their tenant businesses in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for shopping centers or their tenant businesses, a shopping center with a retail establishment tenant(s) may place outdoor retail sales and display areas and outdoor eating areas for such tenant business(es) in the shopping center parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles.

- C. Application. An application in a form approved by the Director of Planning shall be submitted to the Planning and Development Services Department to relocate some or all of a retail establishment's customer-accessible square footage to outdoor retail sales and display in privately-owned areas on the retail establishment site not originally permitted for outdoor retail sales and display. The Director of Planning is authorized to establish submittal requirements and procedures. Temporary Use Permits (TUP) under PAMC Section 18.42.050 may be utilized for this purpose. A TUP issued for this purpose may be valid for a specified period longer than 45 days, notwithstanding subsection (d) of Section 18.42.050. The Planning Director may extend a TUP issued prior to the effective date of this Ordinance to be valid beyond 45 days.

- D. Merchandise or Seating Layout Review. A Layout Review is required to relocate some or all of an retail establishment's permitted indoor customer-accessible square footage to privately-owned areas on the retail establishment site not originally permitted for retail. The Layout Review shall be conducted by a transportation planner, planner, and/or fire inspector who will review and either approve or require modifications to the proposed retail layout based on the following criteria:
1. The placement of the merchandise, displays, or other items does not create a safety risk and adequate pedestrian and vehicular separation is maintained, including with movable barriers as appropriate where outdoor seating is to be placed in parking lots or on-street parking spaces.
  2. The layout accommodates appropriate vehicle and pedestrian circulation and maintains adequate paths of travel and complies with accessibility requirements of the Americans with Disabilities Act.
  3. Any tents must comply with fire codes and Palo Alto Fire Department issued standards for tents, and safety standards set forth by the National Fire Protection Association for fire-resistant tents and must include an affixed manufacturer's label stating the tent meets NFPA requirements. A State Fire Marshal seal on the tent or a certificate is needed to prove treatment.
  4. Any heaters must comply with fire codes.
  5. An adequate and visible barrier is placed that clearly separates the retail area from the parking area and provides sufficient protection for patrons. Adequacy shall be defined in standards and guidelines issued by the Director of Planning.
  6. Other requirements established in the standards and guidelines issued by the Director of Planning.
- E. Fee. No fee will be charged for submittal and review of the Application and for conducting a Layout Review.
- F. No Architectural Review. Notwithstanding PAMC Sections 18.77.077 and 18.76.020, architectural review shall not be required for proposed outdoor retail areas or signage related to such areas during the effective period of this Ordinance.

**SECTION 7. Compliance with Other Regulations, Orders and Approvals**

The outdoor uses of public and private property allowed in this Ordinance shall be conducted in compliance with the Order of the Health Officer of the County of Santa Clara in effect (“County Health Order”), this Ordinance, Resolution No. \_\_\_\_\_, and all other local and state regulations, orders, and approvals, as applicable (collectively, “Applicable Law”). Any approval, allowance or permit to conduct such temporary outdoor use(s) shall be subject to revocation by the issuing City official if the use is conducted in violation of Applicable Law, or poses a threat to public health, safety or welfare.

**SECTION 8. No Vested Rights**

The outdoor uses of public and private property allowed in this Ordinance are temporary and shall be terminated upon the earlier of the date stated in the applicable permit/approval or the expiration of this interim Ordinance, unless earlier revoked by the City Manager or other authorized official (or their designee) or terminated by action of the City Council. The City may discontinue one or more, or all, of the allowed outdoor uses at any time if the City Manager or designee determines that the public health, safety or welfare warrant such action. Nothing in this Ordinance shall establish a vested right.

**SECTION 9. Suspension of Prohibition on Alcohol Consumption in Lytton Plaza and Cogswell Plaza**

Notwithstanding PAMC Sections 22.04.330 and 22.04.331, the City Manager is authorized to suspend the prohibition on consumption of alcoholic beverages in Lytton Plaza and Cogswell Plaza, and adjacent City surface parking lots.

**SECTION 10. Use of City Parking Lots for Reopening Activities**

- A. The City Manager, or his or her designee (“City Manager”), is authorized to permit outdoor dining, retail and other activities as allowed by the County Health Order and reasonably necessary to facilitate the reopening of businesses, in public parking lots owned by the City, subject to the City Manager’s adoption of rules, regulations, guidelines, and standards for such use (“Regulations”), and publication of such Regulations on the City’s website. Use of parking lots, or portions thereof, by a business shall require a license or other agreement, including an agreement to indemnify and hold harmless the City, and provision of insurance.
- B. The City Manager is authorized to waive any fee in the Municipal Fee Schedule associated with the temporary use of parking areas for the purposes identified in Section A above.
- C. Notwithstanding PAMC Section 9.04.020, the City Manager is authorized to suspend the prohibition on consumption of alcoholic beverages in any City owned parking lot.

**SECTION 11. Personal Services, Indoor Recreation and Other Uses**

When allowed by the County Health Order, the authorized outdoor uses of public and private spaces authorized in this Ordinance may be applied to personal services, indoor recreation and other uses. Prior to authorizing these additional activities to occur, the City Manager, or his or her designee (“City Manager”), shall adopt rules, regulations, guidelines, and standards for these uses, and publish them on the City’s website.

**SECTION 12. Severability**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 13. Environmental Review**

The Council finds that the Ordinance is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 20180(b)(4) (specific actions necessary to mitigate or prevent an emergency) and is categorically exempt from CEQA under CEQA Guidelines Sections 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment).

**SECTION 14. Effective Date**

This Ordinance shall be effective immediately upon adoption by at least four-fifths vote of the City Council members present, pursuant to subsection (a)(4) of Palo Alto Municipal Code Section 2.04.330, and shall remain in effect for the duration of the Local Emergency or until December 31, 2020, whichever is later, unless earlier modified, repealed or extended by the City Council.

**SECTION 15. Uncodified**

This Ordinance shall not be codified.

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**SECTION 16. Emergency Declaration**

The Council declares this Ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to Palo Alto Municipal Code Section 2.04.270(d). The facts constituting the emergency are stated in Section 1 of this Ordinance.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Public Works

\_\_\_\_\_  
Director of Planning & Development  
Services

NOT YET ADOPTED

Resolution No.

Resolution of the Council of the City of Palo Alto Temporarily Closing Portions of California Avenue and University Avenue and Certain Downtown Streets Intersecting University Avenue Pursuant to California Vehicle Code Section 21101, and Approving a Pilot Parklet Demonstration Program Including Parklet Standards and Requirements, All Pursuant to the Local Emergency Declaration to Facilitate Outdoor Dining and Retail

R E C I T A L S

A. On March 12, 2020, City Manager Ed Shikada, acting as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the risks and community spread of the novel coronavirus disease 2019 (“COVID-19”). The City Council ratified the issuance of the proclamation on March 16, 2020.

B. On March 16, 2020, March 31, 2020, and April 29, 2020, the Santa Clara County Health Officer issued orders directing all individuals living in the County to continue to shelter in their place of residence subject to certain exceptions. The original and subsequent orders limited activity, travel, and business functions to only the most essential needs, and required all businesses other than “essential businesses”, as defined, to cease activities at facilities located in the County, impacting the revenue and economic stability of many Palo Alto businesses.

C. The directives from the State and the County necessary to contain the spread of COVID-19 have drastically affected the local economy and resulted in serious negative impacts to local businesses, including substantial loss of business income and compensable work hours and wages for individual workers.

D. On June 1, 2020, the Santa Clara County Health Officer issued an order effective June 5, 2020 authorizing outdoor dining at restaurants and in-store retail, with the implementation of and adherence to specified public health protocols.

E. The State, through the California Department of Public Health and Cal OSHA, has issued COVID-19 Industry Guidance: Dine-In Restaurants, which prioritizes outdoor seating and curbside pick-up to minimize the cross-flow of air for people in enclosed environments.

F. Many businesses have already permanently closed, and others are barely surviving. Vibrant commercial centers are essential to Palo Alto. These businesses themselves are an essential part of the community: they provide jobs for Palo Alto workers, provide goods and services to residents and the larger community; they are part of the backbone to the fiscal health of individuals, the city, county and the region.

NOT YET ADOPTED

G. It is vital to create opportunities to help our community rebuild and emerge, to resume some aspects of daily life to the extent feasible and consistent with health and safety, during this continuing public health emergency. Temporary measures and relaxation of regulations to facilitate business activity in outdoor public areas will provide critical assistance to businesses to allow them to reopen and help mitigate the potential public health impacts of reopening.

H. California Vehicle Code Section 21101 permits local authorities, by resolution or ordinance, to temporarily close a portion of any street for celebrations, parades, local special events, or other purposes when the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

I. Government Code Section 8634 provides that “during a local emergency, the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property,” and that such orders “shall be in writing and shall be given widespread publicity and notice.”

J. On June 11, 2020, the City of Palo Alto temporarily closed portions of California Avenue to vehicles by a street closure permit, issued under the Temporary Street Closure Ordinance (Palo Alto Municipal Code Chapter 10.10) in order to facilitate outdoor dining and retail. The Council desires to extend that closure through September 7, 2020, and in addition temporarily close portions of University Avenue and certain intersecting streets Downtown for the same period.

K. The Council desires to further expand opportunities for outdoor restaurant dining through a demonstration pilot project allowing parklets to be placed in spaces currently used for on-street parking on a temporary basis while dining in commercial establishments is prohibited or limited due to COVID-19.

L. This Ordinance allowing outdoor dining and outdoor retail on public streets for a temporary period at this critical time furthers public safety, health and welfare, and is necessary to the protection of life and property as affected by the COVID-19 emergency.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF PALO ALTO RESOLVES AS FOLLOWS:

SECTION 1. Findings and Declarations. The Council hereby adopts the above Recitals as findings of the Council.

SECTION 2. Temporary Street Closures.

- A. The following streets are hereby closed to any and all vehicular traffic through September 7, 2020, in accordance with California Vehicle Code Section 21101(e), to facilitate the temporary uses of outdoor dining and retail:
  - 1. California Avenue from Birch Street to El Camino Real.
  - 2. University Avenue from Emerson Street to Cowper Street, with continued vehicular access across University Avenue at each of the intersecting streets.
- B. The City Manager is authorized to determine the days, hours and duration of the temporary street closure(s) within the period specified in Section A, with reasonable notice provided, and whether exceptions to the closure shall be made for municipal purposes.

SECTION 3. Additional Closures. The City Manager is authorized in his or her capacity as the Director of Emergency Services to extend the University Avenue closure to temporarily close the streets intersecting University Avenue in the Downtown area, from Emerson Street to Cowper Street, by issuance of an order, rule or regulation if the City Manager finds it is reasonably related to the protection of life and property as affected by the Local Emergency. These side street closures shall only extend for one block from University Avenue, between University Avenue and Lytton Avenue to the north and between University Avenue and Hamilton Avenue to the south, and shall be in effect no longer than the period of the University Avenue closure.

SECTION 4. Pilot Parklet Program and Design Requirements. The City Council hereby approves the temporary use of on-street parking spaces in Palo Alto for parklets under the Pilot Parklet Demonstration Program as described in the City Manager's Report for the June 23, 2020 Council meeting, and approves the Parklet Standards and Requirements attached as **Exhibit A** to this Resolution.

- A. The Director of Public Works/City Engineer, or his or her designee (the "Director"), is delegated the authority to exercise their discretion to approve specific parklet locations, plans, designs, materials, and standards, and amendments thereto, consistent with the Parklet Standards and Requirements. The plans and designs shall be signed by the Director.
- B. The Director is authorized to issue implementing guidelines and regulations for the Pilot Parklet Demonstration Program, and to approve

NOT YET ADOPTED

amendments to the Parklet Standards and Requirements as the Director in his or her discretion deems necessary and proper.

- C. The Director may approve a parklet application through issuance of an Encroachment Permit, subject to the general regulations in Palo Alto Municipal Code Section 12.12.010 and the following criteria and procedures:
1. Use. Parklets shall be restricted to outdoor eating areas of eating establishments.
  2. Application and Review. A complete application for a parklet encroachment permit shall be reviewed by City staff for a determination as to whether such application complies with the Parklet Standards and Requirements. The application shall include all information necessary for a determination on the application including, but not limited to a certificate of insurance and a hold harmless and indemnity agreement in favor of the City shall be submitted in accordance with the provisions of Palo Alto Municipal Code Section 12.08.120. The Director shall grant or deny the application.
  3. Conditions. Conditions of approval may be imposed on parklet encroachment permits to maintain the public health, safety and welfare.
  4. Revocation. The Director may revoke a parklet encroachment permit if he or she determines that the conditions of the permit, the provisions of this Ordinance, or any applicable regulation or provision of the Municipal Code are being violated, or if the municipal use of the area is required for reasons of public health, safety, welfare or convenience. The permittee shall be notified of an intent to revoke the permit and shall be entitled to a hearing before the Director whose decision shall be final.

SECTION 5. The City Manager is authorized to enact any rule or regulation or implementing guidelines to effectuate the temporary street closures and implement the outdoor dining and retail program on the closed streets.

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NOT YET ADOPTED

SECTION 6. The Council finds that this Resolution is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 20180(b)(4) (specific actions necessary to mitigate or prevent an emergency) and is categorically exempt from CEQA under CEQA Guidelines Sections 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment).

SECTION 7. This Resolution shall become effective immediately upon adoption and will remain in effect until December 31, 2020, unless extended by the City Council.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Public Works

\_\_\_\_\_  
Chief Transportation Official

# City of Palo Alto

## Summer Streets Parklet Encroachment Permit

### Parklet Standards & Requirements

#### Overall Information for Temporary Parklet Program

- **What is a Parklet?** A parklet is a seating area constructed in one or more public, on-street parking spaces.
- **Eligible Parklet Applicant:** A properly entitled and operating eating and drinking establishment, including retail food establishments such as cafes, ice cream parlors, etc., is eligible to apply for a “Summer Streets Encroachment Permit” (Permit) to construct a parklet in public parking spaces on public streets owned and maintained by the City of Palo Alto.
- **Eligible Parklet Area:** An eligible applicant can propose to construct a parklet in parallel or angle parking space(s) that are immediately adjacent to the frontage of the eating establishment.
  - The City has discretion to determine the allowable density of parklets in a given area. Every eligible area may not be approved for a parklet. The City will balance the needs of an applicant, neighboring establishments, parking and traffic considerations, among other public needs.
- **Permitting:** Any applicant seeking to install a parklet in a public parking space in the City of Palo Alto must apply for and receive a valid “Summer Streets Encroachment Permit” before beginning construction of the parklet. The permit application will be reviewed by the Department of Public Works and other relevant City departments, prior to approval.
  - The Department of Public Works shall be an applicant’s primary point of contact.
  - **Construction of a parklet cannot begin until a permit application has been approved.**
  - Prior to serving patrons and otherwise operating the parklet, the parklet must be inspected by the Department of Publics Works and approved for use.
  - An eligible establishment with a valid Summer Streets Encroachment Permit is eligible to construct and operate a parklet subject to the standards and requirements contained in this document, applicable sections of the Palo Alto Municipal Code, other documents associated by reference, and other documents declared relevant by the Director of Public Works and his or her designee.
- **Sidewalk Dining:** An eligible establishment seeking to place tables and chairs for dining on public sidewalks must also obtain a Summer Streets Sidewalk Encroachment Permit. An eligible establishment may have both a Summer Streets Sidewalk Encroachment Permit and a Summer Streets Parklet Encroachment Permit.
- **Temporary Nature of Permit:** Once issued, a valid “Summer Streets Encroachment Permit” expires on December 31, 2020. All parklet materials are required to be removed at the permit holder’s expense by December 31, 2020.
  - This deadline notwithstanding, the Summer Streets Encroachment Permit can be revoked by the City at any time.

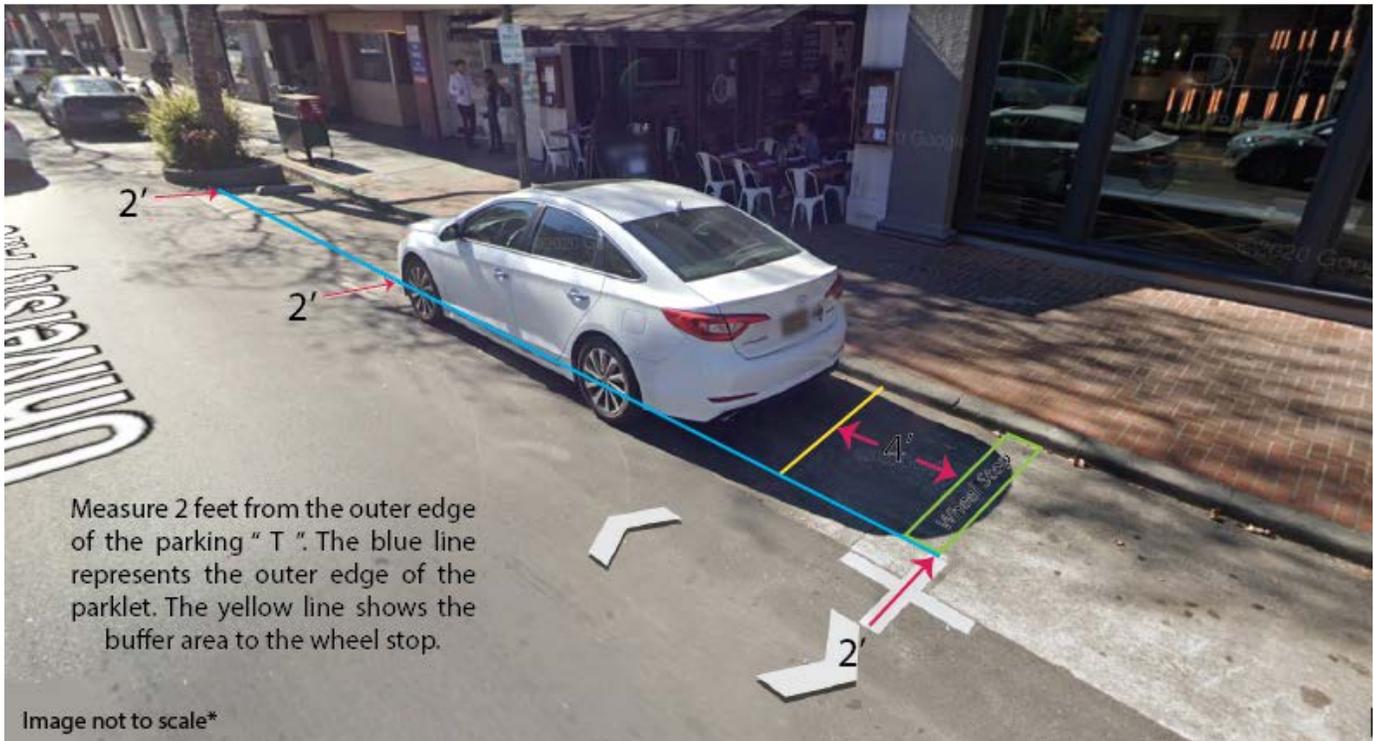


Figure A: Dimensions of a Parklet in a Parallel Parking Space

## Parklet Standards

- An applicant seeking to deviate from the following standards and requirements may need to submit additional materials, may be subject to additional inspections, and may be approved for installation only upon additional review.
- If an applicant's site or proposed parklet design deviates from the conditions and/or design expressed in this document, the proposal will be reviewed and considered. Such review and consideration may require additional time, including a site visit to observe the conditions at the site of the proposed parklet.

## Design and Siting Standards:

### 1. Parklet Area

- A parklet may be installed in on-street parallel parking spaces or on-street angle parking spaces. Dimensional requirements for parallel and angle parking spaces differ per the standards below.
- Parallel Parking Spaces**
  - It is recommended, though not required, that a parklet consist of at least two contiguous parallel parking spaces.
  - A parklet's outer edge shall be 2 feet back from the outer edge of the existing parking space. For all parallel parking spaces located on public streets within the City of Palo Alto, this shall be 2 feet from the exterior edge (closest to traffic) of marked parking T's. This is shown in Figure A.
  - These 2 feet shall be kept clear at all times. The only objects which shall lawfully occupy this space are reflective delineator posts, or their equal.

## Exhibit A

- iv. Parallel parking spaces typically measure 8 feet wide by 20 feet long. Given the above mentioned 2 feet offset from the outer edge of the parking space, and the 4 foot setbacks creating buffer space for wheel stops (if no tree wells are present on the adjacent areas), the dimensions of a parklet in one space would be 6 feet wide x 12 feet long. (Figure A)
- v. Parallel parking space measurements may vary across the City of Palo Alto. As a result of this variation, some parklets may measure less than 6 feet wide.
- vi. Variations notwithstanding, in no case shall a parklet be placed within the 2-foot area measured from the outer edge of the parking space.

### c. Angle Parking Spaces

- i. It is recommended, though not required, that a parklet consist of at least two contiguous angle parking spaces.
- ii. A parklet's outer edge shall be 2 feet back from the outer edge of the existing angle parking space. For angle parking spaces located on public streets within the City of Palo Alto, this shall be 2 feet from the exterior edge (closest to traffic) of the marked parking stall. This is shown in Figure B.

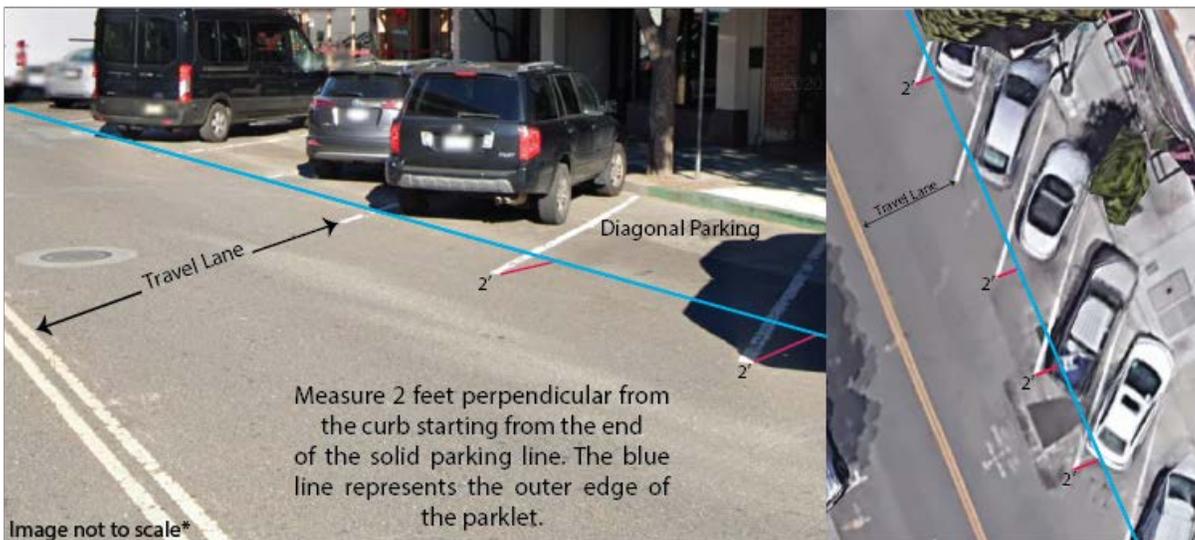


Figure B: Angle Parking Space Parklet Dimensions

### d. Non-Standard Angle Parking Spaces

- i. A parklet proposed in angle parking spaces that do not meet the City of Palo Alto's standard depth for angle parking spaces may only be eligible for parallel parking space parklets. Office of Transportation staff, in partnership with Public Works, will review plans for such sites; this may include a site visit. The additional review will help maximize the parklet while maintaining an adequate travel lane.
- ii. This applies to all angle parking spaces along University Avenue.

## 2. Setbacks Adjacent to Active Parking Spaces

- a. All parklets are required to include 4-foot setbacks from adjacent on-street parking spaces and driveways.
- b. This setback shall be delineated by a concrete wheel stop.

- c. The 4-foot setback shall contain a planter if the required wheel stop(s) is/are glued to the roadway (see section regarding safety devices). The planter should be at least 700 pounds when filled with soil or decorative material.
- d. The 4-foot setback may contain a planter if the required wheel stop(s) are drilled into the roadway.
- e. The setback may not contain seating or any other objects.

### 3. Planters & Plants

- a. Planters in setbacks shall measure as low as 30 inches and high as 36 inches in height.
- b. Required planters (required for glued down wheel stops) the planters should be 700 pounds, made of light weight material such as fiberglass/plastic/steel or wood.
- c. The height of any plants contained within planters in setback or planters serving as a parklet platform enclosure shall not exceed 6".
- d. Plant material shall not impede or hinder pedestrian and vehicular visibility.
- e. No plants shall have thorns, spikes, or sharp edges. Poisonous or invasive plants are not permitted.

### 4. Safety devices

#### a. Wheel Stops

- i. When a parklet is adjacent to active parallel parking spaces, a three-foot wheel stop must be installed. The wheel stop shall measure 3 feet long by 4 inches high. It shall be constructed of concrete or rubber.
- ii. Affixing Wheel Stops
  - 1. Drilled-in Wheel stops: A permittee will need USA clearance to anchor a wheel stop into the road.
  - 2. While awaiting USA clearance, a permittee may occupy an otherwise completed parklet without the installed wheel stops provided that the parking spaces adjacent are empty and temporarily unavailable. This, the adjacent parking spot is not available due to the work being performed to construct the parklet.
  - 3. Epoxied Wheel stops: Wheel stops affixed to the road with epoxy will require planters in the 4-foot buffer space between the parklet and the wheel stop. A planter in this space must weigh at least 700 pounds.
- iii. The wheel stop shall be placed one foot from the curb at the edge of the front parking space. A wheel stop shall be placed one foot from the curb at the edge of the rear parking space.
- iv. Wheel stops shall be setback four feet from the parklet structure.
- v. Parklets extending the length between two in-street tree wells, as on University Avenue, may omit wheel stops.

#### b. Reflective Delineators

- i. The parklet shall include installation of Manual of Uniform Traffic Control Devices (MUTCD)<sup>1</sup> approved delineator posts or their approved equal. The delineator posts shall

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<sup>1</sup> MUTCD: Manual of Uniform Traffic Control Devices

be a minimum height of 42 inches. The delineator posts shall be placed at the beginning and end of the parklet, as well as every 20 feet of the parklet's length. These shall be installed on the street side of the parklet.

- ii. Delineators shall be white with white reflective bands for use on the right side of a travel lane. Reflective bands shall have yellow reflective bands if used on the left edge of a travel lane.
- iii. Delineator posts shall be surface-mounted to the roadway via epoxy and/or glue down methods unless approved otherwise.
- iv. Maintenance of the delineator posts shall be the responsibility of the Permit holder.
- v. Examples of these devices are illustrated in Figures C and D.
- vi. Reflective delineators must be installed at the outside corners of the parklet. The channelizers or posts must align with the end of the platform and not encroach on the travel lane.
- vii. Delineators must be MUTCD approved, 42" high, white with white reflective tape, and anchored to the roadway. They shall be anchored via glue down methods
- viii. The delineators, posts, or their equal must be placed every 20 feet.

#### **5. Parklet Enclosure**

- a. The edges of the parklet platform shall be enclosed. The method of enclosure can take the form of planters, railing, cabling, or other appropriate enclosure.
- b. The minimum height of the required enclosure is 36 inches (3 feet) and the maximum height is 42 inches.
- c. The enclosure design must ensure visibility to passing traffic and pedestrians and not create a visual barrier.
- d. Continuous opaque walls above 42 inches that block views into the parklet from the surrounding streetscape are not allowed.
- e. The edge treatment shall be substantially secured to the parklet platform.



Figure C: White Delineator Post with White Reflectors.



Figure D: Delineator Post with Yellow Reflectors.

**6. Adjacent Sidewalk:** Neither the construction nor operation of the parklet shall interfere with, obstruct, or otherwise diminish the adjacent sidewalk and pedestrian path of travel.

### 7. Anchoring

- a. The parklet shall be anchored to the City curb.
- b. The anchor shall be installed perpendicular to the curb.
- c. The manner of anchoring shall be through a pre-drilled hole into the curb and a concrete anchor bolt.
- d. Any anchoring proposed into the public street will require USA markings and additional staff review.

### 8. Accessibility

- a. The parklet shall comply with the Americans with Disabilities Act (ADA).
- b. Compliance with the ADA can include a parklet surface flush with the sidewalk or a parklet that provides an ADA compliant ramp, railing, landing, and associated eating and drinking facilities.
- c. Any seating and dining must comply with the applicable accessibility requirements outlined in the adopted California Building Code.
- d. **Flush with Sidewalk Parklets:**
  - i. The surface of the parklet platform must be flush with the adjacent sidewalk with a maximum gap of one quarter inch and one quarter inch vertical tolerance.
  - ii. A minimum 4-foot wide accessible path of travel and 5-foot diameter turnaround space must be maintained within the parklet.
  - iii. Any abrupt changes in elevation exceeding 4 inches along an accessible path of travel shall be identified by 6-inch tall warning curbs.

**e. Depressed or Elevated Parklets:**

- i. If a ramp is required for access to the parklet or a portion thereof, it shall comply with all accessibility ramp provisions.

**9. Utility Structures Accessibility**

- a. No utilities access points shall be covered by the parklet.

**10. Platform Structure**

**a. Structural**

- i. Parklets shall be constructed with quality materials and shall be of naturally durable wood (redwood, cedar), preservative-treated wood, or other engineered material suitable for exterior conditions.
- ii. The parklet must support 100 pounds per square foot live load.
- iii. All fastening hardware and fasteners adjacent to and into preservative-treated wood must be hot-dipped zinc-coated galvanized steel, stainless steel, silicon bronze or copper.

- b.** Applicants interested in utilizing fabric sails or other architectural features which may “catch” wind, must provide proof of wind loads.

**c. Drainage, Ventilation and Rodent Proofing**

- i. The underside of the platform shall be constructed to allow for seasonal drainage.
- ii. Adequate cross ventilation shall be installed to allow for the surface to dry within 12 –24 hours.
- iii. Openings under the platform shall be screened with corrosion-resistant material with a maximum one quarter inch mesh.

**11. Table and Seating Layout**

- a. Parklet tables shall be placed in conformance with the health and safety standards established by Santa Clara County and State of California.

**12. Parking Signage**

- a. Any existing parking signs installed adjacent to the parklet must be covered with opaque plastic; such coverage or illegibility shall occur only in manners approved by the City of Palo Alto through its Department of Public Works and/or its Office of Transportation.

**13. Bicycle Facilities**

- a. Bicycle racks or other bicycle facilities shall not be removed, made unusable, or otherwise disturbed by the construction of a parklet.
- b. Any parklet design that proposes such disruption shall require review by and approval of the Office of Transportation.

**Parklet Requirements**

1. Parklets are prohibited in front of active driveways, on street curves or hills where horizontal or vertical sight-distance is an issue.
2. Parklets are permitted on streets with speed limits of 25 mph or less.

3. When located near an intersection, parklets must be located at least 25 feet from the rear most boundary of a crosswalk at the nearest intersection or street corner, as shown in Figure E.
  - a. A curb extension (commonly referred to as a “bulb-out”), some other physical barrier that would protect the parklet in a corner location, or other specific site condition may allow the City to consider variations from the 25-foot minimum requirement.



Figure E: Parklet distance from an intersection.

4. Parklets are generally permitted on streets with a running slope (grade) of five percent or less.
5. Parklets can't block public utilities, bus stops, or driveways.
6. Parklets located next to driveways or alleys must be set back two feet from the outside edge of the driveway.
7. Parklets shall be placed no closer than 50 feet from a bus stop loading zone.
8. Parklets shall be placed no closer than 15 feet from fire hydrants.
9. Parklets shall be placed no closer than 5 feet from catch basin. Parklet construction and design must allow access to the catch basin and shall not obstruct catch basin.
10. Parklets cannot be installed in existing travel lane at any time.

**11. Umbrella Standards**

- a. Cannot extend past the buffer areas surrounding the parklet.
- b. Umbrellas or other shade structures cannot extend into the street-facing buffer.
- c. Must be placed on the parklet platform, not on the sidewalk, roadway, or in the buffer areas.
- d. Umbrellas must be sufficiently weighted or secured to prevent being blown over or into the street or sidewalk.

**12. Heater Standards**

- a. Heaters must be placed at least 5 feet away from any combustible materials.
- b. All canopies and coverings to be Rated.
- c. Extinguisher on site
- d. Propane qualifies as a hazardous material, so storage and permitting would have to be considered.

**13. Lighting**

- a. Outdoor lights are allowed if parklet permit holders can connect lighting to a source of power provided by the permit holder.
- b. Lights and any associated equipment, such as extension cords, must be rated for exterior use.
- c. Lights can be LED lights only.
- d. No cords can extend under the floorboards or under any carpeting or other floor covering.

**Best Practices**

- A. The City of Palo Alto hopes that parklets enliven the streets of Palo Alto. The temporary parklet program allows Palo Altans to more safely enjoy local establishments in an environment that, due to being outdoors, decreases the risk of spreading COVID-19. The parklets also provide an amenity for businesses that may help them continue operations.
- B. The City encourages neighboring businesses to work together, reach agreements, and otherwise cooperate when it comes to the installation of parklets. That said, no establishment can veto or otherwise prevent the installation of a parklet permit that has been duly reviewed and issued by the City of Palo Alto.
- C. The City recommends that establishments that wish to install parklets discuss the concept and draft plans with immediately adjacent neighbors. The City may request evidence of such discussion, such as an email, certified email, or other documentation indicating the idea of installing a parklet and draft plans was presented and discussed.
- D. If two establishments eligible to install parklets are neighboring or are located in such close proximity that they may share the same parklet area, the City requires that the establishments share the parklet space. If one or more establishments are not interested in collaborating to develop and operate a shared parklet, the City requests the applicant provide written acknowledgement from the non-participating party.

Attachment C – Summary of Legislative Actions

<b>Topic</b>	<b>Legislative Action</b>	<b>Program and/or Policy</b>
Sidewalk Dining	Interim Urgency Ordinance	Council action to temporarily waive permit fees for encroachment permits and remove architectural review, thus allowing establishments to more quickly obtain permits to place tables and chairs on public sidewalks and in closed portions of public streets.
Outdoor Retail Display and Sales Activities	Interim Urgency Ordinance	Allowing retailers to apply for and receive sidewalk encroachment permits, without fees or architectural review, to display merchandise on sidewalks and closed portions of public streets.
Private Parking Lots	Interim Urgency Ordinance	Allowing up to 50% of a private, off-street parking lot to be temporarily converted to outdoor dining or outdoor retail space, including for provision of services. This is subject to staff review for conformance and safety, but will be allowed without fee and without architectural review.
Alcohol Consumption	Interim Urgency Ordinance	Allowing establishments with valid ABC licenses for on-sale consumption and local CUPs to serve alcohol in outdoor dining areas that are properly permitted, including public sidewalks, parklets, closed portions of public streets, and expanded service areas in private parking lots. Requires establishments receive approval from ABC via the Temporary Catering Authorization permit. Also allows consumption of an alcoholic beverage with a meal in Lytton Plaza, Cogswell Plaza, and King Plaza.
Public Parking Lots	Interim Urgency Ordinance	Enables the City Manager to permit dining, retail, or other activities in City-owned parking lots. Closure of all or portion of the lots and associated permitting would be subject to the development of rules, regulations, and guidelines. No current program is proposed to operate in City-owned parking lots.
Personal Services, Indoor Recreation,	Interim Urgency Ordinance	Enables the City manager to develop rules, regulations, guidelines, and permitting process to allow personal services, indoor recreation, and other uses to be

Attachment C – Summary of Legislative Actions

Other Uses		conducted outdoors. This anticipates continued relaxation of the County Shelter in Place Order; enabling the City to develop and implement the program should the Health Order allow these activities.
Temporary Street Closures	Resolution	Allows the City to temporarily close portions of California Avenue, University Avenue, and other side streets to these thoroughfares, for extended periods of time up to and including Labor Day 2020. While not currently proposed, the resolution authorizes the City Manager to close the intersecting streets as well.
Parklet Demonstration Program	Resolution	Allows the City to permit and implement a Parklet Demonstration Program. Parklets would be permitted, through the Department of Public Works, to occupy on-street parking spaces in public streets. The resolution waives fees and architectural review. The resolution approves the parklet standards and requirements attached to the resolution.