

ORDINANCE NO. 2021-_____

**AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA,
AMENDING SECTION 9.08.035, *USE OF SIDEWALKS FOR
OUTDOOR DINING*, OF THE CULVER CITY MUNICIPAL CODE
TO ADD THE USE OF PARKLETS AND OTHER USES AND
MODIFY THE CURRENT OUTDOOR DINING AGREEMENT
PROCESS.**

WHEREAS, a Parklet is an open space typically comprised of one, two, or three adjacent curbside parking spaces located directly in front of a restaurant, art gallery, retailer, or other business and is used primarily for outdoor dining or to create a customer waiting area, as a stage for acoustic musicians to play, landscaping or a small garden, to display public art, or other type of open space for public use; and

WHEREAS, creative use of street right-of way, such as Parklets, has gained popularity in other cities and in particular since the COVID-19 pandemic, although some Culver City businesses expressed interest in such use even prior to the pandemic; and

WHEREAS, in response to the COVID-19 pandemic, and under the authority of emergency public orders, a number of temporary Parklets were approved through issuance of Temporary Use Permits (TUP) to increase outdoor dining and retail capacities, since indoor operations were significantly curtailed or prohibited; and

WHEREAS, the City Council desires to amend Section 9.08.035 of the Culver City Municipal Code to allow for the continued use of street right-of-way for Parklets; and

WHEREAS, City staff has also incorporated additional modifications and clarifications to Section 9.08.035 with regard to the current sidewalk outdoor dining program.

1 **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**
2 **HEREBY ORDAIN** as follows:

3 **SECTION 1.** Section 9.08.035 of the Culver City Municipal Code is hereby
4 amended to read as follows (additions indicated by underline text; deletions indicated by
5 ~~strikethrough~~ text):

6 **§ 9.08.035 USE OF PUBLIC RIGHT-OF-WAY ~~SIDEWALKS~~ FOR OUTDOOR**
7 **DINING OR OTHER USES.**

8 A. *Purpose.* The purpose of this Subchapter is to authorize the administrative
9 ~~licensing~~ permitting of public Right-of-Way, including sidewalks and curbside
10 parking spaces, for outdoor dining, ~~areas~~ and other uses as set forth in the
11 Outdoor Dining Standards and Procedures or Parklet Design Guidelines, in
12 areas where the establishment of ~~outdoor dining~~ such uses will promote
commercial revitalization and business opportunities in a manner that is
consistent with the public health, safety and welfare ~~and safety~~.

13 B. *Definitions.* For the purposes of this Section, the following definitions shall
14 apply unless the context clearly indicates or requires a different meaning.

15 1. **Outdoor Dining Permit and License Agreement** shall mean the
16 permit issued by the City to a person or business authorizing the use
17 of the sidewalk for outdoor dining or other uses as set forth in the
Outdoor Dining Standards and Procedures.

18 2. **Outdoor Dining Standards and Procedures** shall mean standards
19 and procedures for the design and operation of the sidewalk to be
20 used for outdoor dining and other uses, which shall be established by
21 resolution of the City Council.

22 3. **Parklet Design Guidelines** shall mean standards and procedures for
23 the design and operation of curbside parking spaces to be used for
24 outdoor dining and other uses, which shall be established by
25 resolution of the City Council.

26 4. **Parklet Street Use Permit and License Agreement** shall mean the
27 permit issued by the City to a person or business authorizing the use
28 of curbside parking spaces for outdoor dining or other uses as set
forth in the Parklet Design Guidelines.

1 5. **Permit** shall mean, individually or collectively, a valid Outdoor Dining
2 Permit and License Agreement and/or a valid Parklet Street Use
3 Permit and License Agreement.

4 6. **Permittee** shall mean the holder of an Outdoor Dining Permit and
5 License Agreement or a Parklet Street Use Permit and License
6 Agreement issued by the City.

7 7. **Public Right-of-Way** includes, but is not limited to sidewalks and
8 curbside parking spaces(s).

9 BC. Applicability.

10 1. In order to use the Public Right-of-Way sidewalk for outdoor dining or
11 other uses as set forth in the Outdoor Dining Standards and
12 Procedures or Parklet Design Guidelines, a person or business must
13 obtain, as applicable, an Outdoor Dining Permit and License
14 Agreement or Parklet Street Use Permit and License Agreement as
15 provided in this Subchapter.

16 2. ~~which~~ Each Permit shall provide for, but not be limited to, the
17 indemnification of the City by the Permittee, ~~and the maintenance of a~~
18 requirement to maintain liability and other insurance coverage, and a
19 refundable maintenance deposit for damage that may be caused to the
20 Public Right-of-Way.

21 ~~The City Council shall establish standards and procedures for design and~~
22 ~~operation of outdoor dining areas by adoption of a resolution.~~

23 CD. Public Works Director/City Engineer authority.

24 1. The Public Works Director/City Engineer is authorized to approve and
25 execute, on behalf of the City:

26 a. an Outdoor Dining Permit and License Agreement, subject to the
27 adopted Outdoor Dining Standards and Procedures; and

28 b. a Parklet Street Use Permit and License Agreement, subject to the
 adopted Parklet Design Guidelines.

 2. In addition to all other remedies provided by law or set forth in the
 Permit, ~~the~~ Public Works Director/City Engineer is authorized to
 suspend or revoke:

1 a. ~~the an~~ Outdoor Dining Permit and License Agreement for violation
2 of its terms and conditions or violation of the adopted Outdoor
3 Dining Standards and Procedures; and

4 b. a Parklet Street Use Permit and License Agreement for violation of
5 its terms and conditions or violation of the adopted Parklet Design
6 Guidelines.

7 3. ~~In addition to all other remedies provided by law or agreement, the City~~
8 ~~Engineer is authorized to revoke the Outdoor Dining License~~
9 ~~Agreement for violation of the adopted Outdoor Dining Standards and~~
10 ~~Procedures.~~

11 DE. Placement and removal of fixtures and equipment on sidewalk in the Public
12 Right-of-Way.

13 1. Notwithstanding § 9.08.010 of this Code, fixtures and equipment
14 approved by the Public Works Director/City Engineer pursuant to a Permit
15 ~~an Outdoor Dining License Agreement~~ may remain in and on
16 the Public Right-of-Way sidewalk during such time as a Permit ~~an~~
17 ~~Outdoor Dining License Agreement~~ is in effect.

18 2. Upon revocation or termination of a Permit ~~an Outdoor Dining License~~
19 ~~Agreement~~, all fixtures and equipment shall immediately be removed
20 from the Public Right-of-Way sidewalk, and the Public Right-of-Way
21 shall be sidewalk restored returned to its original condition, at
22 Permittee's sole cost and expense.

23 3. After revocation or termination of Permit ~~an Outdoor Dining License~~
24 ~~Agreement~~, Permittee's failure to remove all fixtures and equipment or
25 to restore ~~return~~ the Public Right-of-Way sidewalk to its original
26 condition, or both, shall be deemed a nuisance affecting the public's
27 health, safety and welfare, and is prohibited. In such a case,
28 Permittee's maintenance deposit shall be forfeited.

EF. Use of Public Right-of-Way sidewalk for outdoor dining or other use is
prohibited. Notwithstanding any other provisions of this Code, it shall be
unlawful for any person or business to use the Public Right-of-Way sidewalk
for outdoor dining or other use without first obtaining a Permit ~~valid Outdoor~~
~~Dining License Agreement~~.

G. Fees. The City Council, by resolution, may establish fees for the use of the
Public Right-of-Way for outdoor dining and other uses.

1 **SECTION 2. ENVIRONMENTAL DETERMINATION.** The City Council hereby
2 finds there are no potentially significant adverse impacts on the environment and the proposed
3 Ordinance has been determined to be Categorically Exempt per California Environmental
4 Quality Act (CEQA) Section 15301, Class 1 – Existing Facilities, because the proposed
5 Ordinance concerns the operation, repair, maintenance, permitting, leasing, licensing, or minor
6 alteration of existing public or private structures, facilities, mechanical equipment, or
7 topographical features, involving negligible or no expansion of existing or former use
8 [subsection (c) sets forth existing highways and streets, sidewalks, etc. as an example of such
9 a project]. The use of the Public Right-of-Way for outdoor dining and other uses within the
10 existing street and sidewalk involves negligible or no expansion of use, as it does not remove
11 or create automobile lanes.

12 **SECTION 3. EFFECTIVE DATE.** Pursuant to Section 619 of the City Charter,
13 this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to
14 Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the
15 adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in
16 the Culver City News and shall post this Ordinance or a summary thereof in at least three
17 places within the City.
18

19 **SECTION 4. SEVERABILITY.** The City Council hereby declares that, if any
20 provision, section, subsection, paragraph, sentence, phrase or word of this Interim Ordinance
21 is rendered or declared invalid or unconstitutional by any final action in a court of competent
22 jurisdiction or by reason of any preemptive legislation, then the City Council would have
23 independently adopted the remaining provisions, sections, subsections, paragraphs,
24 sentences, phrases or words of this Ordinance and as such they shall remain in full force and
25 effect.
26

SECTION 5. PUBLICATION. Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

APPROVED and ADOPTED this _____ day of _____ 2021.

ALEX FISCH, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY GREEN
City Clerk

CAROL A. SCHWAB
City Attorney

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