



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: November 7, 2023

Agenda Item: 10C

Department: Community Development / Planning Division
Prepared By Jonathan Lightfoot, City Planner

Subject:

INITIATION OF ZONING AMENDMENT TO SECTION 17.28.206 - TEMPORARY PARKLET DINING – TO EXTEND THE TEMPORARY PARKLET DINING PROGRAM UNTIL JULY 1, 2026 IN ACCORDANCE WITH CALIFORNIA ASSEMBLY BILL 1217

Fiscal Impact:

There is no fiscal impact to initiate this amendment. However, should the Council approve a Zoning Amendment to extend the temporary parklet dining program at a future meeting, staff would collect monthly license fees of five to ten thousand dollars per month into the General Fund from participating businesses.

Summary:

The City Council adopted Ordinance 1727 on April 5, 2022 which established Section 17.28.206 - Temporary Parklet Dining – within the San Clemente Municipal Code (SCMC). That Section includes an expiration for the parklet / outdoor dining program of December 31, 2023 based on timelines provided within state legislation, specifically Assembly Bill (AB) 61 and Senate Bill (SB) 314 from the 2021 legislative session. In October of 2023, the Governor signed new legislation extending the State provisions supportive of outdoor dining through July 1, 2026. If the City Council desires to match this extension of its local program for outdoor dining, it can initiate a Zoning Amendment to update the expiration date referenced in SCMC 17.28.206.

Background:

The COVID-19 pandemic up-ended much of business and social life in 2020 and 2021. To mitigate the pandemic's impacts, the City of San Clemente implemented a variety of emergency measures, including adopting a "Temporary Outdoor Operations Program" which allowed businesses to move or expand their operations into outdoor areas. That program concluded at the end of 2021. However, the Governor signed legislation to further promote outdoor dining (namely AB 61 and SB 314) in the fall of 2021. These bills permitted local agencies to establish or maintain their outdoor dining programs through December 31, 2023 and enabled the California Department of Alcohol and Beverage Control (ABC) to continue its flexible "Temporary Catering Permit". Following reviews by the Design Review Subcommittee and hearings with the Planning Commission, on April 5, 2022, the City Council adopted Ordinance 1727, establishing San Clemente Municipal Code Section 17.28.206 - Temporary Parklet Dining.

The existing Temporary Parklet Dining Ordinance sets standards for location (such as minimum separations from intersections), materials (wood decks and railings), a standard limit of 24 chairs, and accessibility provisions. Further detail can be seen in the San Clemente Municipal Code

Section [17.28.206](#), and the City would continue to implement a monthly fee used to support the City's trolley operations. To implement the current program, a self-certification [checklist](#) for the restaurant businesses was created which includes basic design and operation expectations of the program.

In October of 2023, the Governor signed AB 1217 (provided as Attachment 2), which amends Section 25750.5 of the Business and Professions Code, extending the State provisions supportive of outdoor dining through July 1, 2026. A copy of the City's current regulations governing the parklet dining program, SCMC 17.28.206, is provided as Attachment 3. SCMC 17.28.206 includes a sunset date of December 31, 2023. If the Council desires to continue this program past December 31, 2023, initiating an amendment to this Section of the Code would be necessary.

Attachment 1 provides a draft resolution to initiate this Zoning Amendment. If initiated, staff will prepare draft language for the amendment for review at a public hearing by the Planning Commission. The Planning Commission's recommendation will then be forwarded back to the City Council for final action.

Council Options:

- Approve the draft resolution to initiate the Zoning Amendment and refer consideration of this item to the Planning Commission.
- Approve the draft resolution to initiate this amendment with an alternate expiration date other than July 1, 2026.
- Continue this item with direction to staff regarding specific changes to the scope of the amendment
- Decline to initiate this amendment, and require the removal of outdoor dining parklets after December 31, 2023.

Environmental Review/Analysis:

The Planning Commission will make a determination on the environmental review at the required public hearing if this item is initiated. Initiation for consideration of an amendment is not a project under CEQA Section 15378.

Recommended Actions:

Staff recommends that the City Council approve Resolution 23-131 to initiate a Zoning amendment to Section 17.28.206 - Temporary Parklet Dining – to extend the temporary parklet dining program until July 1, 2026 in accordance with California Assembly Bill 1217 and refer consideration of this item to the Planning Commission.

Attachment:

1. Resolution No. 23-131
2. Text of AB 1217
3. Copy of San Clemente Municipal Code Section 17.28.206 (Current regulations)

4. Parklet Self-Certification Checklist

Notification:

The San Clemente Chamber of Commerce and Downtown Business Association were notified of this agenda item.

ATTACHMENT 1

RESOLUTION NO. 23-131

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, INITIATING A ZONING AMENDMENT TO SECTION 17.28.206 - TEMPORARY PARKLET DINING - TO EXTEND THE TEMPORARY PARKLET DINING PROGRAM UNTIL JULY 1, 2026 IN ACCORDANCE WITH CALIFORNIA ASSEMBLY BILL 1217 AND REFER CONSIDERATION OF THIS ITEM TO THE PLANNING COMMISSION

WHEREAS, the Governor of the State of California signed into law after the 2021 legislative session various bills supporting small businesses, including AB 61 and SB 314, which provide regulatory flexibility in the service areas for alcohol and relief from parking standards while encouraging local agencies to adopt ordinances and regulations as are herein proposed that streamline the approval for outdoor dining; and

WHEREAS, on November 16, 2021, the City Council directed staff to initiate a Zoning Amendment to establish a new temporary outdoor dining program as promoted by AB 61 and SB 314; and

WHEREAS, proposed regulations and design guidelines were discussed by the City's Design Review Subcommittee (DRSC) on December 15, 2021 and January 12, 2022 and also by the Planning Commission on February 16, 2022; and

WHEREAS, on March 2, 2022, the Planning Commission held a duly noticed public hearing on the zoning amendments, and considered evidence presented by City staff and other interested parties and recommended approval of the Zoning Amendment; and

WHEREAS, on March 15, 2022, the City Council held a duly noticed public hearing on Ordinance 1727, considered the agenda report and the Planning Commission's recommendation in connection with the proposed amendments; and

WHEREAS, on April 5, 2022, the City Council adopted Ordinance 1727 upon its second reading to establish Section 17.28.206 – Temporary Parklet Dining; and

WHEREAS, the Governor of the State of California signed into law AB 1217 after the 2023 legislative session, which extends the framework for outdoor dining facilities until July 1, 2026.

NOW, THEREFORE, the City Council of the City Of San Clemente does hereby find, determine and resolve as follows:

SECTION 1. The foregoing recitals are true and correct and incorporated by this reference.

SECTION 2. The City Council hereby directs City staff to initiate a Zoning Amendment to Section 17.28.206 - Temporary Parklet Dining - to extend the temporary parklet dining program until July 1, 2026 in accordance with California Assembly Bill 1217 and refer consideration of this item to the Planning Commission.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, 2023.

Mayor of the City of San
Clemente, California

ATTEST:

CITY CLERK of the City of
San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 23-131 was adopted at a regular meeting of the City Council of the City of San Clemente held on _____ day of November 2023, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

Elizabeth A. Mitchell, City Attorney


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AB-1217 Business pandemic relief. (2023-2024)

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Date Published: 10/10/2023 09:00 PM

Assembly Bill No. 1217

CHAPTER 569

An act to amend Section 25750.5 of the Business and Professions Code, to amend Section 65907 of the Government Code, and to amend Section 114067 of the Health and Safety Code, relating to business pandemic relief.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1217, Gabriel. Business pandemic relief.

(1) Existing law, the Alcoholic Beverage Control Act, is administered by the Department of Alcoholic Beverage Control and regulates the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act requires the department to make and prescribe rules to carry out the purposes and intent of existing state constitutional provisions on the regulation of alcoholic beverages, and to enable the department to exercise the powers and perform the duties conferred upon it by the state constitution and the act, not inconsistent with any statute of this state. The act makes it unlawful for any person other than a licensee of the department to sell, manufacture, or import alcoholic beverages in this state, with exceptions. The department, pursuant to its powers and in furtherance of emergency declarations and orders of the Governor under the California Emergency Services Act regarding the spread of the COVID-19 virus, established prescribed temporary relief measures to suspend certain legal restrictions relating to, among other things, the expansion of a licensed footprint, sales of alcoholic beverages to-go, and delivery privileges. Existing law authorizes the department, for a period of 365 days following the end of the state of emergency proclaimed by the Governor on March 4, 2020, in response to the COVID-19 pandemic, to permit licensees to exercise license privileges in an expanded license area authorized pursuant to a COVID-19 Temporary Catering Authorization approved in accordance with the Fourth Notice of Regulatory Relief issued by the department, as specified. Existing law makes these provisions effective only until July 1, 2024, and repeals them as of that date.

This bill, instead, would make those provisions operative only until July 1, 2026, repeal those provisions on that date, and make conforming changes.

(2) The Planning and Zoning Law authorizes the legislative body of any city or county to adopt ordinances that regulate zoning within its jurisdiction, as specified. Under that law, variances and conditional use permits may be granted if provided for by the zoning ordinance. Existing law, to the extent that an outdoor expansion of a business to mitigate COVID-19 pandemic restrictions on indoor dining interferes with, reduces, eliminates, or impacts required parking for existing uses, requires a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for expanded outdoor dining areas to reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to

accommodate an expanded outdoor dining area. Existing law makes these provisions operative on January 1, 2022, and repeals them on July 1, 2024.

This bill, instead, would make those provisions operative only until July 1, 2026, and repeal them on that date. Because the bill would require local officials to perform additional duties for an extended period, the bill would impose a state-mandated local program.

(3) Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities. Existing law restricts satellite food service to limited food preparation in a fully enclosed permanent food facility that meets specified requirements. Existing law requires a permanent food facility, before conducting satellite food service, to submit to the enforcement agency written operating standards. Existing law, for a period of one year after the end of the state of emergency proclaimed by the Governor on March 4, 2020, related to the COVID-19 pandemic, or until January 1, 2024, whichever occurs first, authorizes a permitted food facility within any local jurisdiction that is subject to retail food operation restrictions related to a COVID-19 public health response to prepare and serve food as a temporary satellite food service without obtaining a separate satellite food service permit or submitting written operating procedures.

With regard to those provisions that authorize a permitted food facility to prepare and serve food as a temporary satellite food service in relation to the COVID-19 public response, this bill, instead, would make those provisions operative only until July 1, 2026.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25750.5 of the Business and Professions Code, as added by Section 1 of Chapter 651 of the Statutes of 2021, is amended to read:

25750.5. (a) The Department of Alcoholic Beverage Control may permit licensees to exercise license privileges in an expanded license area authorized pursuant to a COVID-19 Temporary Catering Authorization approved in accordance with the Fourth Notice of Regulatory Relief issued by the department on May 15, 2020. A COVID-19 Temporary Catering Authorization authorizes the on-sale consumption of those alcoholic beverages for which the licensee has on-sale privileges on property that is adjacent to the licensed premises, under the control of the licensee.

(b) The COVID-19 Temporary Catering Authorization approved by the department shall be subject to terms and conditions established by the department and stated in the Fourth Notice of Regulatory Relief and the related application form, including, but not limited to, that the authorization may be canceled as determined by the department, as provided in the Fourth Notice, which includes, but is not limited to, upon objection by local law enforcement or if operation of the temporarily authorized area is inconsistent with state or local public health directives.

(c) Notwithstanding any other law, if the department determines that any licensee is found to be abusing the relief provided by this section, or if the licensee's actions jeopardize public health, safety, or welfare, the department may summarily rescind the relief as to that licensee at any time.

(d) This section shall remain in effect only until July 1, 2026, and as of that date is repealed.

SEC. 2. Section 25750.5 of the Business and Professions Code, as added by Section 4 of Chapter 656 of the Statutes of 2021, is amended to read:

25750.5. (a) The Department of Alcoholic Beverage Control may permit licensees to exercise license privileges in an expanded license area authorized pursuant to a COVID-19 Temporary Catering Authorization approved in accordance with the Fourth Notice of Regulatory Relief issued by the department on May 15, 2020. A COVID-19 Temporary Catering Authorization authorizes the on-sale consumption of those alcoholic beverages for which the licensee has on-sale privileges on property that is adjacent to the licensed premises, under the control of the licensee.

(b) The COVID-19 Temporary Catering Authorization approved by the department shall be subject to terms and conditions established by the department and stated in the Fourth Notice of Regulatory Relief and the related application form, including, but not limited to, that the authorization may be canceled as determined by the department, as provided in the Fourth Notice, which includes, but is not limited to, upon objection by local law enforcement or if operation of the temporarily authorized area is inconsistent with state or local public health directives.

(c) Notwithstanding any other law, if the department determines that any licensee is found to be abusing the relief provided by this section, or if the licensee's actions jeopardize public health, safety, or welfare, the department may summarily rescind the relief as to that licensee at any time.

(d) This section shall remain in effect only until July 1, 2026, and as of that date is repealed.

SEC. 3. Section 65907 of the Government Code is amended to read:

65907. (a) To the extent that an outdoor expansion of a business to mitigate COVID-19 pandemic restrictions on indoor dining interferes with, reduces, eliminates, or impacts required parking for existing uses, a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for expanded outdoor dining areas shall reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to accommodate an expanded outdoor dining area.

(b) This section shall remain in effect only until July 1, 2026, and as of that date is repealed.

SEC. 4. Section 114067 of the Health and Safety Code is amended to read:

114067. (a) Satellite food service is restricted to limited food preparation.

(b) Satellite food service shall only be operated by a fully enclosed permanent food facility that meets the requirements for food preparation and service and that is responsible for servicing the satellite food service operation.

(c) Before conducting satellite food service, the permit holder of the permanent food facility shall submit to the enforcement agency written standard operating procedures that include all of the following information:

(1) All food products that will be handled and dispensed.

(2) The proposed procedures and methods of food preparation and handling.

(3) Procedures, methods, and schedules for cleaning utensils, equipment, structures, and for the disposal of refuse.

(4) How food will be transported to and from the permanent food facility and the satellite food service operation, and procedures to prevent contamination of foods.

(5) How potentially hazardous foods will be maintained in accordance with Section 113996.

(d) All food preparation shall be conducted within a food compartment or fully enclosed facility approved by the enforcement officer.

(e) Satellite food service areas shall have overhead protection that extends over all food handling areas.

(f) Satellite food service operations that handle nonprepackaged food shall be equipped with approved handwashing facilities and warewashing facilities that are either permanently plumbed or self-contained.

(g) Notwithstanding subdivision (f), the local enforcement agency may approve the use of alternative warewashing facilities.

(h) During nonoperating hours and periods of inclement weather, food, food contact surfaces, and utensils shall be stored within any of the following:

(1) A fully enclosed satellite food service operation.

(2) Approved food compartments where food, food contact surfaces, and utensils are protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(3) A fully enclosed permanent food facility.

(i) Satellite food service activities shall be conducted by and under the constant and complete control of the permitholder of the fully enclosed permanent food facility, or the duly contracted personnel of, or third-party providers to, the permitholder.

(j) For purposes of permitting and enforcement, the permitholder of the permanent food facility and the permitholder of the satellite food service shall be the same.

(k) (1) A permitted food facility within any local jurisdiction that is subject to retail food operation restrictions related to a COVID-19 public health response may prepare and serve food as a temporary satellite food service without obtaining a separate satellite food service permit or submitting written operating procedures pursuant to subdivision (c). The written operating procedures shall be maintained onsite for review, upon request, by the local jurisdiction.

(2) This subdivision shall remain operative until July 1, 2026.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

17.28.206 Temporary Parklet Dining

- A. **Purpose and Intent.** The temporary parklet regulations and design standards are established under State enabling legislation (AB 61 and SB 314), which allow local agencies to adopt a program to support local business recovery from the impacts of the coronavirus pandemic by providing relief from parking restrictions to accommodate outdoor dining.
- B. This Section models the State's intent to allow for a streamlined process to expand temporary outdoor dining areas. This program is temporary, with a termination date of December 31, 2023, or 365 days following the end to the state of emergency proclaimed by the Governor on March 4, 2020, in response to the COVID-19 pandemic, whichever comes earlier. Requests for Permanent Outdoor Dining areas on either private or public property should refer to SCMC 17.28.205 - Outdoor Dining Areas.
- C. **Applicability.** This section shall apply to temporary outdoor facilities that are accessory to a food or beverage business licensed in the City of San Clemente. The facilities may be established:
- a. On the public right-of-way on streets with a speed limit of 25 mph or less; or
 - b. On private property.
 - c. Additionally, a business may apply for use of sidewalk space where the public path of travel is greater than 10 feet in width under the exception process outlined in subsection D.
- D. **Review Requirements.** Requests for Parklet Permits that comply with this title and the approved Parklet Design Guidelines will be approved ministerially.
- a. General standards: These regulations apply to all temporary outdoor food and beverage spaces, both on public and private property:
 - i. Hours of operation.
 1. Alcohol, food, or beverages shall not be served or allowed within the outdoor dining area:
 - a. Before 7:00 a.m. and after 9:00 p.m. Sunday through Thursday; and
 - b. Before 7:00 a.m. and after 10:00 p.m. Friday through Saturday and the day prior to a City Holiday.
 2. Outdoor Dining Areas shall comply with all State of California Department of Alcoholic Beverage Control license requirements, as applicable.
 - ii. Use of space.
 1. Smoking or vaping shall not be permitted within the outdoor dining areas.
 2. Outdoor cooking and food preparation within the outdoor dining area is prohibited.
 3. Live entertainment, including but not limited to live music and performances, is not permitted within the outdoor dining area and must be requested separately via a Special Events Permit or Special Activities Permit.
 - iii. Accessibility.
 1. A path of travel not less than five feet in width must be maintained free and clear adjacent to any outdoor dining area.
 2. An accessible path of travel shall connect the sidewalk to the accessible entry, deck surface, wheelchair turning space, and wheelchair resting space.
 3. A clear area of 60 inches in diameter located entirely within the outdoor dining area shall be provided for wheelchair turning, with a maximum overlap of 12 inches on the curb and sidewalk.

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4. At least one wheelchair accessible seating space shall be provided for every 20 seats, or portion thereof.
 5. Accessible Deck Surface:
 - a. The accessible deck surface maximum cross slope (perpendicular to the sidewalk or curb) and the maximum running slope (parallel to the curb) shall not exceed two percent.
 - b. The surface of the accessible route, clear floor spaces, and turning spaces shall be firm, stable, and slip-resistant.
 - c. Openings in floor or deck surfaces shall not allow the passage of a sphere more than half an inch in diameter. Elongated openings shall be placed so that the longer dimension is perpendicular to the dominant direction of travel.
 - iv. Design Guidelines: Additional guidelines may be contained within the City's Parklet Design Guidelines, which the City may adjust from time to time.
 - v. Exceptions: Exceptions to the standards listed herein shall require a review by the Design Review Subcommittee, which shall provide a recommendation to the Community Development Director or Deputy Director. The Community Development Director shall make a final determination, appealable to the Planning Commission per the City's standard Appeals process (See 17.12.140 - Appeals of an Action).
- b. Parklets in the Street (Public Right-of-Way):
- i. Allowed Locations: Parklets may only be located adjacent to eating and drinking establishments at the following locations:
 1. Within the curb lane on streets where on-street metered or unmetered parking spaces exist adjacent to the front of the eating and drinking establishment; and
 2. Behind the buffer zone as indicated within the Parklet Design Guidelines. Each business is responsible for its own costs associated with procurement and installation of the buffer zone and parklet materials.
 3. Parklets may occupy up to three angle-in parking spaces or up to two parallel parking spaces. No more than six consecutive spaces may be used for outdoor dining operations.
 - ii. Prohibited locations: Parklets may not be located or placed at any of the following locations:
 1. Along a street segment with a speed limit greater than 25 miles per hour.
 2. Within 10 feet away from any intersection, street corner, alley, or driveway. The Public Works Department may increase or decrease this distance based on a site specific review of line of sight conditions; and
 3. Within an existing bike lane or within a proposed bike lane project identified in any of the City's comprehensive bicycle plan(s) or adopted land use plan(s).
 4. Within five feet of storm drain inlets or cleanouts.
 5. Over utility access panels, manhole covers, handholes, transformers, water meters, or water valves.
 6. Within five feet of a fire hydrant and/or any related emergency equipment.
 7. Within five feet of any natural gas or electric utility facility, including but not limited to any manholes, handholes or vaults, and any surface-level structures such as natural gas meters,

monitors, pressure regulators, protection stations, poles, curbside electric meters, transformers, or green utility boxes.

iii. Limitations:

1. Parklets may occupy an on-street ADA parking space that is adjacent to the business's frontage; however, this request requires an applicant undergo the additional exceptions process, requiring review by the Design Review Subcommittee (DRSC) with input from the Public Works Director. The applicant shall be responsible for any costs associated with relocating accessible parking space, which shall be within 150 feet from the original space.
2. The number of temporary parking waivers approved in the Downtown Parking Study area as part of the Limited Term Parking Relief Agreements shall not exceed 117, which is the number of unutilized parking waivers in the Downtown Parking Study Area as of February 16, 2022. (See SCMC 17.64.125.A.2).
 - a. A maximum of 42 parking spaces may be used on Avenida Del Mar for the purpose of parklets.
3. Parklets are limited to 24 seats per business.

iv. Design Requirements for Parklets on public streets: Businesses should reference the City's Parklet Design Guidelines, which include (but are not limited to) the following standards:

1. The width of the parklet shall not extend within four feet of the edge of the street travel lane.
2. A parklet shall provide a setback of at least two feet from adjacent vehicle parking spaces.
3. The deck of the parklet platform shall be flush with the sidewalk.
4. Street deck/platforms should have a five inches by 18 inches minimum opening for curb drainage, unless approved otherwise by the City Engineer.
5. Openings in floor or deck surfaces shall not allow the passage of a sphere more than half an inch in diameter.
6. Bolting of fixtures, decks, and other surfaces into or onto the street, or otherwise penetrating into the surface of the road, shall not be permitted.
7. A 42 inch high railing shall be placed at the edge of the parklet to serve as a barrier from vehicular traffic.
8. No object, structure, or fixture shall stand or be placed more than 42 inches above the floor of the parklet, except for umbrellas and standing heaters, which may be up to eight feet in height. The business is responsible for securing umbrellas and heaters from wind.
9. Umbrellas with an overhang of a minimum of 84 inches from the finished grade of the deck and/or sidewalk may be used in conjunction with a parklet, but no other covering, awning, roof, or shelter is permitted over the parklet. The canopy of the umbrella shall be contained within the parklet and shall not protrude into the sidewalk, adjacent parking spaces, adjacent parklets, or the travel or bike lane.
10. Solar powered lights shall be permitted within the parklet, but electrical lighting elements that contain wires that cross the clear path of travel shall not be permitted.
11. Signs: Only blade, menu, or stanchion signs are permitted within or around the parklet. Each business may only have four square feet of such signage, where only one side of a double-faced sign is counted toward this limit. Signs shall not exceed seven feet in height

and shall not overhang the public sidewalk, adjacent parking spaces, adjacent parklets, or the travel or bike lane.

- a. A business that shares the frontage area of an adjacent business (which itself does not have its own parklet area) shall also pay for and produce a four square-foot blade sign with the name of the neighboring business using that business's trademark or logo if applicable. The neighboring business may waive this requirement in writing to the City if they do not desire the additional signage.
 - b. Signs shall be specifically identified and requested within the Parklet application and shall not require a separate Administrative Sign Permit.
- c. Parklets on Private Property:
- i. Allowed Locations: Parklets may be permitted in any Zone as an accessory use of any food or beverage business with an active San Clemente Business License.
 - 1. Private Parklets may be established on private property in areas that do not obstruct required paths of travel and do not remove more than three parking spaces attributed to the business.
 - 2. The locations on private property should be within parking stalls, unless approved otherwise by the City Engineer or City Planner.
 - ii. Prohibited locations: Parklets may not be located or placed at any of the following locations:
 - a. ADA parking stalls.
 - b. Within five feet of a fire hydrant and/or any emergency equipment.
 - c. Within five feet of any natural gas or electric utility facility, including the perimeter of any manholes, handholes or vaults, and any surface-level structures such as natural gas meters, monitors, pressure regulators, protection stations, poles, curbside electric meters, transformers, or green utility boxes.
 - iii. Design Requirements for Parklets on private property: Businesses should reference the City's Parklet Design Guidelines, which include (but are not limited to) the following standards:
 - a. Private parklets are encouraged, but not required, to construct wooden platforms or decks under 30 inches in height and flush with the nearest path of travel.
 - b. A parklet shall provide a setback of at least two feet from adjacent vehicle parking spaces.
 - c. A backup distance of 20 feet must be maintained between the parklet edge and nearby parking stalls.
 - d. Private parklets are encouraged to use market umbrellas for shade, but may use a single large tent (if approved by OCFA). They may not use 10-foot square pop up tents.
 - e. A 42 inch high railing shall be placed at the edge of the parklet to serve as a barrier from vehicular traffic within parking lots.

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- f. Parklets are limited to 24 seats per business.
- d. Limited Term Parking Relief Agreement Requirements:
- i. Prior to installation of any furniture or improvements and prior to operation of a parklet, an applicant shall obtain a Limited Term Parking Relief Agreement.
 - a. Requests for approval of Limited Term Parking Relief Agreements that comply with the standards set forth in 17.28.206 and the City's Parklet Design Guidelines shall be reviewed administratively and approved by the City Manager or his or her designee.
 - b. Agreements shall specify a fee, as set by the City Council, for the use of and operation of the parklet;
 - c. Agreements shall require Insurance coverage, including Commercial General Liability, personal injury, and property damage liability, with minimum combined liability limits of \$1,000,000.00 per occurrence.
 - ii. Additional standards for parklets in the street / public right-of-way:
 - a. Prior to installation of any furniture or improvements, a Limited Term Parking Relief Agreement must be executed between the City and the applicant.
 - b. Parklets shall follow standard dimensions and plans as indicated within the Parklet Design Guidelines. Deviations from the standard approved construction templates shall require review by the Design Review Subcommittee.
 - c. During hours of non-operation, tables shall be removed, but all chairs shall remain in a secured fashion that allows public access to the space outside of restaurant operating hours.
 - d. Limited Term Parking Relief Agreements may indicate certain dates or events during which the restaurant shall agree to public or non-profit use of the parklet space.
 - iii. Parklets shall be removed within 14 days of the end of the Parklet Program, which expires the sooner of December 31, 2023, or 365 days following the end to the state of emergency proclaimed by the Governor on March 4, 2020, in response to the COVID-19 pandemic, whichever comes earlier.

(Ord. No. 1727 § 4, 2022)

Editor's note(s)—Ord. No. 1594, § 3(Exh. A, § 29), adopted May 5, 2015 repealed § 17.28.206, which pertained to Outdoor dining areas on public property, permanent and accessory and derived from Ord. 1308 § 11, adopted in 2006; Ord. 1182 § 11, adopted in 1997; and Ord. No. 1561, § 3(Exh. A, §§ 14—16), adopted Nov. 27 2012.

San Clemente Parklets

Self-Certification Checklist

**Note: Parklets may not be constructed until a Limited Term Parking Relief Agreement has been executed by the City. Parklets may not begin operation/use until the business owner and contractor have completed this self-certification.*

Site Plan

- 1. (Either)** This parklet is using a standardized plan.
 - a.** The parklet has a 4' buffer zone between edge of deck and outer edge of parking area.
 - b.** The parklet deck is a minimum of 2-feet off center of parking stripes to allow for egress from vehicles that park in adjacent stalls.
- 2. (Or)** This parklet is **not** using a standardized plan (includes all private property parklets).
 - a.** There is a 20' backup distance between the parklet edge and nearby parking stalls; no vehicles may be parked in this space.
 - b.** If a tent is used, the business has shown proof of permit from OCFA.
 - c.** No more than 50% of parking (max 5 stalls) are used for dining.
- 3.** This parklet is 10' away from any intersection, street corner, alley, or driveway.*
- 4.** This parklet is 5' away from storm drain inlets or cleanouts.*
- 5.** This parklet is 5' away from a fire hydrant and/or any related emergency equipment.*
- 6.** This parklet is 5' away from any natural gas or electric utility facility.*
- 7.** This parklet does not obstruct any ADA parking spaces.*
- 8. * IF NO for any of numbers 3-8:** has the location has been approved by the City Engineer or designee?

Accessibility

- 1.** There is a 5' path of travel free and clear adjacent to the outdoor dining area.
- 2.** At least one wheelchair accessible seating space is provided.
- 3.** Openings in floor or deck surfaces are less than ½" in size.

San Clemente Parklets

Self-Certification Checklist

Design

- 1. The parklet has a 3-sided, 42" tall wooden railing. Railings are slatted (not solid). There are no railing or wall elements taller than 42".
- 2. There are no more than 3 umbrellas and two portable propane heaters on the parklet (public property only). Umbrellas and heaters are 8' tall or less and do not overhang the sidewalk or driving aisle.
- 3. Lighting is solar powered.
- 4. There are no cords or wires crossing the sidewalk.
- 5. Parklet sign is 4 square feet or less, under 7' in height, and cannot overhang the sidewalk. Banners and plastic signs are not permitted.

Operations [Operator Initial below]

Business owner/operator has acknowledges the following:

- a. Food and beverage service is permitted between 7:00 a.m. and 9:00 p.m. Sunday through Thursday; and between 7:00 a.m. and 10:00 p.m. Friday through Saturday and the day prior to a City Holiday. Decks must close by 10 p.m. _____
- b. The business is responsible for separately obtaining any required ABC approvals, such as the Temporary Catering Authorization. _____
- c. Smoking or vaping shall not be permitted within the outdoor dining areas approved by this program. _____
- d. Outdoor cooking and food preparation within the outdoor dining area is prohibited. _____
- e. Live entertainment, including but not limited to live music and performances, is not permitted within the outdoor dining area and must be requested separately via a Special Events Permit or Special Activities Permit. _____
- f. The Parklet's required liability insurance is current. _____
- g. A maximum of 24 chairs are permitted on the parklets. _____

Note: The City reserves the right to suspend any Parklet operations that are not compliant with the above operational standards._____

Operator Name: _____ **Signature:** _____

Contractor/Builder: _____ **Signature:** _____

Date completed: _____