

## RESOLUTION NO. 21-15

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### **A RESOLUTION TO ALLOW TEMPORARY PARKLETS IN THE RIGHT-OF-WAY AND TEMPORARY PRIVATE PROPERTY OUTDOOR DINING AND RETAIL**

**WHEREAS**, the State of Oregon has placed restrictions on the use of commercial spaces due to the pandemic known as COVID-19; and

**WHEREAS**, providing an opportunity for businesses to expand their operations outdoors, either in the public right-of-way or private property, will generate greater pedestrian activity, help increase business patronage and overall interest in the area, and off-set some of the losses resulting from the spacing minimums required to reduce the spread of COVID-19; and

**WHEREAS**, temporary parklets are public spaces located in the public right-of-way that provide increased outdoor dining capacity; and

**WHEREAS**, temporary private property outdoor dining and retail activities will also provide additional seating or retail display space for local restaurants, bars, and retail businesses; and

**WHEREAS**, to be successful, parklets and private property outdoor dining and retail must adequately address infrastructure and parking impacts, be tied to a specific location, be safe for the public to use, be easily maintained by the permittee, be for a limited and certain term, and be capable of easy and fast installation and removal; and

**WHEREAS**, Oregon City Municipal Code ("OCMC") Section 12.04.120 identifies requirements for temporary obstructions in the right-of-way, OCMC Section 12.04.130 sets forth the requirements for sidewalk sales and OCMC Titles 15.28, 16 and 17 includes planning standards such as minimum and maximum off-street parking requirements; and

**WHEREAS**, the City Commission approved Resolution 20-22 temporary allowing these uses from July 16, 2020 to November 30, 2020 and again from March 15, 2021 to November 30, 2021 with a fee of \$25 per year after March 14th. Resolution 20-30 allowed the business that submitted a permit by November 30<sup>th</sup>, to continue the use from December 1, 2020 to March 14, 2021 without additional review; and

**WHEREAS**, this Resolution will update the standards for parklets and private property restaurants and retail from March 17, 2021 to November 30, 2021 year as identified in Exhibit A; and

**WHEREAS**, after the facilities are initially permitted, additional review is required for the March 15, 2021-November 30, 2021 year as well as any time changes are proposed. Each review requires submittal of a separate application and associated fee.

### **NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:**

**Section 1.** The City hereby allows Exhibit A, The Oregon City COVID-19 Recovery Assistance Program (the "Program"), which authorizes parklets on a limited basis within the Mixed-Use Downtown (MUD) zone extending along 7<sup>th</sup> Street between Singer Hill Road and Jackson Street and the use of private parking lots on a limited basis throughout the City.

**Section 2.** All engineering and planning fees that otherwise would apply to a request to expand or alter a business into the right-of-way or private parking lot consistent with the Program terms shall be waived and instead, shall be subject to a fee of \$25 per business for each application type.

**Section 3.** All applicable engineering standards set forth in OCMC 12.04.120 and 12.04.130 for all temporary obstructions relating to restaurant, bar seating and retail sales within the public right-of-way that otherwise complies with the Program shall be waived for the period of March 17, 2021 to November 30, 2021.

**Section 4.** All applicable land use planning standards set forth in in OCMC Titles 15.28, 16 and 17 for development on private property necessary to accommodate temporary outdoor dining and retail in private parking lots that otherwise complies with the Program shall be waived for the period of March 17, 2021 to November 30, 2021.

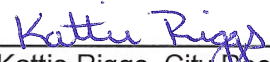
**Section 5.** Authorizations granted pursuant to this resolution are temporary and may occur only from March 17, 2021 to November 30, 2021.

**Section 6.** This resolution shall take effect immediately upon its adoption by the City Commission.

Approved and adopted at a regular meeting of the City Commission held on the 17<sup>th</sup> day of March 2021.

  
\_\_\_\_\_  
ROCKY SMITH, Commission President

Attested to this 17<sup>th</sup> day of March 2021:

  
\_\_\_\_\_  
Kattie Riggs, City Recorder

Approved as to legal sufficiency:

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

Attachments:

Exhibit A - Oregon City COVID-19 Recovery Assistance Program March 17, 2021 – November 30, 2021

## **Oregon City COVID-19 Recovery Assistance Program: March 17, 2021 – November 30, 2021**

Due to the COVID-19 pandemic, the City of Oregon City supports alternative ways to help increase patronage of local businesses effected by physical distancing requirements. This program includes temporarily allowing the following with restrictions:

- **Parklet Pilot Program:** Restaurants in certain locations downtown and along 7<sup>th</sup> Street to temporarily use adjacent on-street parking for outdoor temporary use as an extension of dining; and
- **Private Property Outdoor Dining and Retail Program:** Retail and Restaurants throughout the City to use up to half their parking lot or other locations on private property, such as decks or patios, for additional retail and/or dining.

Both programs are temporary from July 16, 2020 – November 30, 2020 (with an extension over the winter for those who had previously submitted an application) and again from March 15, 2021-November 30, 2021. This guide applies to both programs from March 17, 2021 to November 30, 2021.

### **Parklet Pilot Program**

Restaurants in the Mixed Use Downtown District and along 7<sup>th</sup> Street (Singer Hill Road to Jackson Street) may construct a parklet in adjacent on-street parking areas to allow expanded outdoor dining.

These expanded seating areas called “parklets” will allow restaurants throughout the business community to temporarily increase seating capacity and safely serve more customers, while maintaining social distancing, by locating chairs and tables along sidewalks, in on-street parking areas. See Exhibit 2 for conceptual drawings.



## **ELIGIBILITY OF BUSINESSES**

Eating and drinking establishments within the Mixed Use Downtown (MUD) District and within a block of 7th Street (from Singer Hill Road to Jackson Street).

## **PARKLET LOCATIONS**

The parklet program limits the number of allowed parklets per block as necessary to accommodate for ADA accessibility for pedestrians, protect accessible parking and no-parking areas such as loading zones. ADA parking spaces may be relocated temporarily if ADA standards can continue to be met.

### **1. Location**

A parklet must be located within an existing on-street parking stall abutting or partially abutting the business utilizing the parklet. Only one parklet may utilize one parking stall; however, multiple parklets are allowed per business, per frontage if neighboring property owners and businesses approve of additional parklets. Businesses may work together to create a parklet using two or more on-street parking stalls if the businesses are adjacent to each other. In addition, any business may allow customers of other nearby business to utilize the parklet.

### **2. Approval**

A parklet shall only be located in designated on-street parking areas that have been approved by the City of Oregon City after careful review and authorization via a Parklet Permit. The property owner, any additional building tenants, along with all other businesses located adjacent to and immediately abutting within the same block of the parklet must provide written consent supporting the request.

### **3. Posted Speed Limit**

A parklet may be established along roadways where the posted speed limit is 25 mph or less.

### **4. Parking Zones**

Parklets are prohibited in accessible parking spaces and the accessible aisle adjacent to the accessible spaces and no parking zones. See Exhibit 1 for locations that are prohibited from parklet use in downtown; areas marked in red. ADA parking spaces may be relocated temporarily if ADA standards can continue to be met.

## **TERM OF USE**

Parklets are to be temporary in construction. They may be assembled March 15 through November 30. Permits will be for this period only, pending review and approval. This means parklets must not be installed before March 15, unless otherwise authorized, and must be completely removed on or before November 30 of each year.

## **GENERAL GUIDELINES**

- Public parklets must be located adjacent to the applicant's business.
- If all accessibility and design requirements are met, installation of a parklet platform is not required, provided that existing pavement is not damaged or otherwise altered.
- Design for easy removal. The parklet will sit on top of the existing street surface. Because parklets may sit on top of critical infrastructure and utilities such as gas lines, sewer and water mains, etc., they need to be designed for easy removal in case of an emergency.
- No additional signage is allowed within or on the parklet other than those required by law.
- Maintenance and litter removal are the responsibility of the applicant/owner. Failure to maintain the parklet may result in the revocation of the permit.
- No audio systems or other sound amplification devices are permitted for incorporation in the design of any parklet and shall not be used on any parklet.
- No smoking or vaping is permitted within a parklet at any time.
- ADA Guidelines must be met at all times.
- If applicable, the applicant is responsible for obtaining separate Oregon Liquor Control Commission (OLCC) permits.
- If applicable, the applicant is responsible for following food safety guidelines as well as Center for Disease Control (CDC) guidelines regulated by the Oregon Health Authority.
- If applicable, the applicant is responsible for following fire safety guidelines as regulated by Clackamas Fire District #1.

## **MAINTENANCE OF THE PARKLET**

The parklet will be owned and maintained by the applicant. The applicant is responsible for all costs associated with the design development, construction, installation, maintenance, and removal of the parklet. Approval of an application obligates the applicant to keep the parklet free of debris, grime, and graffiti, and to keep all plants in good health.

The permit requires that the facility is swept daily and debris is removed from under (if applicable) and around the parklet a minimum of once a week. A maintenance plan and agreement are required to ensure compliance.

## **PARKLET DESIGN STANDARDS**

The following design standards ensure that all parklets are safe, accessible, attractive, and functional.

### **1. BASE AND DECKING**

If proposed, parklet decking must be designed such that the parklet has a vertical lip of no more than ¼-inch as it connects to the curb and may not have more than a ½ inch gap from the curb. The cross slope from the curb to the street must not exceed 2%. This means that most parklets will likely have an elevated base decking. The submitted design must demonstrate that the deck is compliant with ADA accessibility requirements including at least one ADA-compliant access point for each parking space used.

The parklet platform may not be attached to or damage the street and must be easily assembled and disassembled. Any damage to the street is the responsibility of the applicant.

The parklet platform must be designed to allow for curblane stormwater drainage and include a minimum twelve (12") inch gutter bar. The parklet platform must be designed to not allow debris to collect underneath the deck.

### **2. PARKLET FOOTPRINT**

A buffer is required in the locations in which the parklet abuts adjacent on-street parking stalls. For parallel parking there must be a twenty-four (24") inch setback on either end of the parklet, adjacent to parallel parking, and to the roadway. Wheel stops may be used but are not required.

For diagonal and perpendicular spaces, the edge of the parklet must be set back eighteen (18") inches from the adjacent parking space on either side. This setback space must be included within the parklet space, and not be taken from the adjacent space.

For multiple businesses adjacent to each other or businesses that received approval from the City and neighboring properties to install multiple parklets, adjoining stalls are allowed without a buffer.

### **3. BUFFER**

Parklet design must include a physical continuous physical barrier along the street able to withstand impact while maintaining clear visual sightlines to the street.

To protect a parklet located on a parallel parking space from parking maneuvers, substantial planters, weighted bollards, or other structures that can withstand light

vehicular impact, must be installed on either end of the parklet and at the street edge. Cones or Type II barricades are not acceptable. Parklets occupying diagonal parking spaces are not required to have such substantial edge materials, except for the side and corners at the street edge. Additional traffic safety items may be added to the final design by City staff.

Barriers and fencing may not extend into the street side setback zone or bolted into the street. If portable fencing is used, each section must be connected together. If cable is used for the barrier, spacing between cables cannot exceed 6-inches.

A reflective delineator post must be placed at the outer corners of the parking space/parklet, 6-inches from the wheel stops. Delineator posts must be 36-inches tall, cylindrical, white, flexible, and must include reflective striping.

#### **4. VERTICAL ELEMENTS**

Vertical elements, such as planters and umbrellas over tabletops, should be included so that the facility is visible to vehicles. Umbrellas or sails cannot be placed within 20 feet of a stop sign and must be contained within the parklet.

Applicants with overhead canopies, sails, or similar must demonstrate that the structures have the ability to withstand wind loads equal to the standards which apply on private property. Covers comprised of more substantial materials such as wood or metal are not allowed.

Applicants proposing a cover must demonstrate that visual obstruction to adjacent businesses, both to storefronts and identifying signage, is minimized.

#### **5. MATERIALS**

The use of high quality, durable materials capable of withstanding prolonged use is required. Examples include wood and metal. Pallets, construction fencing, or chain link are not allowed.

Surface materials: loose particles, such as sand or loose stone, are not permitted on the parklet. A non-slip surface is required.

#### **6. SEATING**

Everyone should be able to travel adjacent sidewalks and enjoy parklets. Furniture must be able to accommodate a minimum of one accessible space per parklet. To accommodate for social distancing measures currently in place, tables, including their seating, and circulation areas must be a minimum of 6 feet from one another.

## **7. LIGHTING**

Lighting that extends across the sidewalk must be a minimum of 8 feet above the sidewalk. Any single lighting source more than 40 watts shall be shielded.



## **8. HEATING APPLIANCES**

Portable outdoor gas-fired heating appliances (such as propane heaters) shall be approved by Clackamas Fire District #1.

## **9. SIDEWALK DIVERSIONS**

In place of a parklet, a business may choose to install a sidewalk diversion which must meet ADA guidelines, be made of durable materials, using slip resistant materials, and be protected similarly with substantial planters, weighted bollards, or other structures that can withstand light vehicular impact.

Barriers and fencing may not extend into the street side setback zone or be bolted into the street. If portable fencing is used, each section must be connected together. If cable is used for the barrier, spacing between cables cannot exceed 6-inches.

A reflective delineator post must be placed at the outer corners of the parking space/sidewalk diversion, 6-inches from the wheel stops. Delineator posts must be 36-inches tall, cylindrical, white, flexible, and must include reflective striping.



Example of a sidewalk diversion

## **APPLICATION**

An application for a Parklet Permit is required and must be approved before installation of the parklet. Once the parklet is constructed, an inspection is required to verify compliance with the approved application. Applications will be accepted on a rolling basis. A parklet applicant must comply with the applicable standards and agree to the terms of the Indemnity and Release Agreement required as part of the application including Liability Insurance covering Permittee's activity described in the Release.

## **PARKLET PERMIT FEE**

During the initial pilot program, a \$25 parklet fee will be required per year, but the sidewalk fee will be waived.

## **LIABILITY INSURANCE**

A parklet applicant must maintain general liability insurance in the amount no less than \$2 million per occurrence/\$4 million aggregate throughout the term of the parklet permit, in accordance with the Indemnity and Release Agreement obligations and City of Oregon City standards.

## **SITE PLAN**

A design document is required at the time of application submittal. A complete set of proposal drawings is required in order to be considered for approval. This site plan/design will help staff understand how your parklet would fit within the street. The site plan does not need to be drawn by a design professional, it can be done by hand or computer, and shows the exact location of the parklet, the area around the parklet, the proposed layout and dimensions, and where parklet amenities (e.g., seating and landscape features) would be placed. Staff will determine if your selected site is appropriate for a parklet and how the parklet would integrate into the neighborhood context.

## EXHIBIT 1



Main Street from 6<sup>th</sup> Street to Hwy 99E



Main Street from 6<sup>th</sup> Street to 8t Street

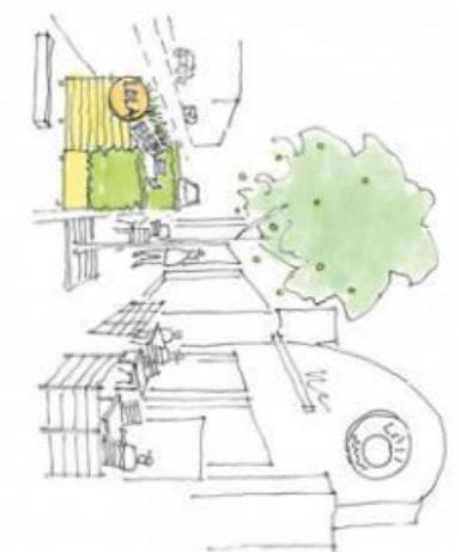
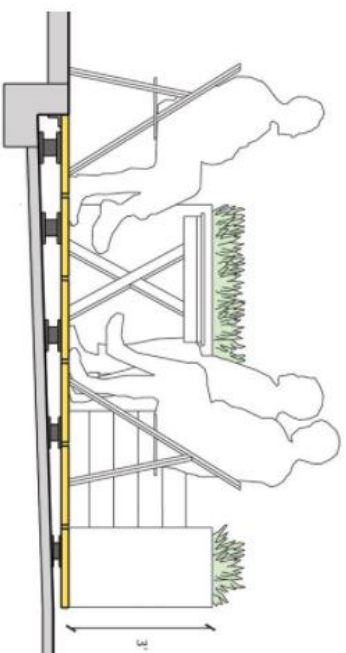


Main Street from 8<sup>th</sup> Street to 10<sup>th</sup> Street



Main Street from 10<sup>th</sup> Street to 11<sup>th</sup> Street

EXHIBIT 2 – Possible Options



# Private Property Outdoor Dining and Retail Program

The following temporary program is designed to support local restaurants/bars and retail subject to COVID-19 minimum spacing requirements. The purpose of the program is to temporarily allow the use of up to half of a private parking lot or other areas on private property, such as patios or decks, for outdoor seating or retail use. Simply placing furniture on an existing patio or deck is not subject to compliance with this program, however, tents or other shade structures placed on a patio or deck require compliance with this program unless approved through a Site Plan and Design Review.



This program is temporary. Outdoor dining and retail areas constructed in compliance with these provisions may be assembled from July 16, 2020 – November 30, 2020 and again from March 15, 2021-November 30, 2021. Temporary facilities that submitted a permit by November 30, 2020 were allowed to continue use, from December 1, 2020 to March 14, 2021. The minimum parking requirements as well as other applicable land use standards are suspended and replaced with the requirements within this policy.

## DESIGN STANDARDS

### 1. SIZE

Up to 50% of the parking spaces in a parking lot on the same property as a restaurant/bar or retail business may be converted to outdoor dining/retail space. Within shopping centers, where a lot serves more than one business, the 50% limit applies to the shopping center parking lot as a whole.

### 2. DESIGN

- a. To protect the outdoor dining or retail area from parking maneuvers, substantial planters, weighted bollards, or other structures that can withstand light vehicular impact must be installed between vehicular areas and the expanded outdoor space. Cones or Type II barricades are not acceptable. A physical barrier is not required for outdoor seating/retail areas which are separated from parking lots or auto travel lanes by a raised curb, bollards, landscaping, or other continuous existing physical barrier.
- b. Minimum required landscaping shall not be removed.
- c. Required pedestrian walkways shall be maintained.

- d. An unlimited number of temporary tents, umbrellas, or and other shade structures are allowed within the expanded outdoor area with documentation demonstrating they are secured to the ground or otherwise protected from movement. The structures may be any size.
- e. No use of the ADA stall(s) or adjacent striping is allowed.
- f. No change to the vehicular ingress/egress of the site is allowed.
- g. The following minimum clearance must be maintained within the parking lot:  
8 feet above sidewalks/pedestrian accessways  
No cords, structures, sails, coverings, or similar may cover or extend across a space for vehicle maneuvering or parking.
- h. Any single lighting source more than 40 watts shall be shielded. Excessive lighting may be deemed a nuisance.
- i. If seating is provided, a minimum of one accessible (ADA) seat shall be provided per parklet.

### **3. MATERIALS**

- a. The outdoor dining area shall be designed for easy removal.
- b. No installation of gravel, sand, or other surface materials is allowed.
- c. No chain link, pallets, or construction fencing is allowed.

### **4. OTHER STANDARDS**

- a. Approval from the property owner is required.
- b. Approval from the Building Department and Clackamas County Fire District #1 is required.
- c. Applications must be submitted to the Planning Division.
- d. A fee of \$25 each year will be charged for participation in this program.

### **5. PERMIT SUBMITTAL REQUIREMENTS**

An application for the Private Property Outdoor Dining and Retail Program is required and must be approved before installation. Once construction is complete, an inspection is required to verify compliance with the approved application

- ✓ Application Form
- ✓ Site Plan drawing or sketch including:
  - Footprint of the proposed outdoor dining/retail area
  - Building footprints and entrances
  - Existing parking stalls
  - Existing driveways
  - Proposed vehicle circulation diagram
  - Location of barricades around outdoor dining/retail area

If an owner wishes to continue use of the outdoor dining or retail area after the closure of this program, the owner shall be responsible for obtaining proper approvals as well as compliance with all applicable standards in the Oregon City Municipal Code.