

**TOWN OF SAN ANSELMO  
STAFF REPORT**

For the Meeting of November 9, 2021

TO: Town Council

FROM: Sean Condry, P.E., Public Works Director  
Dmitriy Laptev, Public Works Project Coordinator  
Emily Longfellow, Assistant Town Attorney

SUBJECT: Introduction and first reading of an Ordinance amendment to the Town of San Anselmo Municipal Code, Title 7 “Public Works” adding Chapter 14 “Parklets”; and adoption of a Resolution approving “Parklet Guidelines”

---

**RECOMMENDATIONS**

1. That the Town Council hold a public hearing to consider adoption of an Ordinance amendment to the Town of San Anselmo Municipal Code amending Title 7 “Public Works” adding Chapter 14 “Parklets”; and a Resolution approving “Parklet Guidelines”, allowing permanent parklets.
2. Motion to read the Ordinance amendment by title only. The Town Clerk will read aloud the full title of the Ordinance.
3. Motion to approve the first reading of the Ordinance amendment and waive future readings of the Ordinance in its entirety.
4. Motion to adopt Resolution approving Parklet Guidelines.
5. Give direction to staff as necessary.

**BACKGROUND**

Parklets repurpose public space, such as on-street parking, into areas for public and commercial use. The development of parklets, particularly for outdoor dining and retail purposes, dramatically expanded at the onset of the Covid-19 pandemic as a way to allow restaurants and retail businesses to safely operate outdoors. Beyond responding to Covid-19, parklets provide benefits such as increasing outdoor community space, promoting walkability, and encouraging pedestrians to linger in business areas.

To serve the community and local business, the Town of San Anselmo swiftly implemented a temporary Outdoor Activities Program in the Spring of 2020 that authorized outdoor dining and retail activities in on-street parking locations. Parklets developed under this temporary program have enlivened and activated the downtown area, and increased pedestrian activity and a sense of community.

Staff has received positive feedback about the temporary parklet program by both businesses and members of the community, and survey results show that about 90% of Town residents, and about 56% of businesses, are in favor of permanent parklets. Additionally, a few businesses have made significant investments to create attractive parklets that benefit the Town by boosting retail and restaurant activity, and providing increased outdoor pedestrian space.

Because the current parklets in San Anselmo are operating on a temporary basis, on September 28, 2021, the Town Council held a public hearing to consider the adoption of a permanent parklet program and give direction to staff. After hearing feedback from the community and holding a discussion, a majority of the Town Council directed staff to return with guidelines for allowing permanent parklets.

Pursuant to this direction, staff now returns with a proposed draft Parklet Ordinance and associated Parklet Guidelines that will allow the development of permanent parklets. Both private commercial and public parklets are allowed.

## **DISCUSSION**

The proposed permanent parklet program has two components that work together. First, the Parklet Ordinance broadly authorizes permanent parklets upon the approval of an encroachment permit and payment of fees, and contains standard requirements. Second, the Parklet Guidelines provide a more detailed description of requirements and criteria, including design and safety standards. Parklet applications will be reviewed by the Public Works Director or his designee. The Parklet Guidelines give the Town the ability to review and condition each application as appropriate for the site and neighbors, considering issues such as safety and design. There would be no limit to the number of parklets the Town would approve.

Below please find a summary of the main points of the Parklet program. For ease of reference, Sections “A” through “E” below correspond with the headings in the proposed Parklet Guidelines.

### **A. Siting and Location**

#### **1. Location and Size Criteria**

The location and siting of all parklets must take into consideration public safety, and the final parklet location must be approved by the Public Works Director or his designee based on the safety issues of each specific location. A parklet must leave at least a minimum 4-foot unobstructed adjacent sidewalk width to allow for pedestrian use, and the parklet may not interfere with the visibility of pedestrians, bicycles, or vehicles. Parklets would be allowed along the frontages of storefronts in commercial zones where the speed limit is no more than 25 miles per hour and may be allowed in areas with higher speed limits on a case by case basis.

Parklets shared with an adjacent business may be considered on a case-by-case basis as appropriate for the site, but the total parklet area may not exceed the frontage for the combined businesses. The proposed Parklet Guidelines contain requirements for the use of both parallel

and angled parking spaces, with a maximum of two parallel parking spaces or four perpendicular parking spaces allowed for each parklet. Corner locations and parklets adjacent to a crosswalk or driveways must provide sufficient lines of sight to ensure safety based on the particulars of each case. Parklets must be setback at least 1 foot from the edge of the adjacent lane of travel, and setback from adjacent parking spaces as necessary for safety and access purposes, depending on the site.

## **2. Fire and Safety Access**

A parklet may not block or obstruct fire hydrants or public utilities. Additionally, fire and emergency access is required by either providing a 5-foot wide opening from the street to the walkway every two adjacent parklets, or by providing a door in the middle of an individual parklet. Finally, all parklets must satisfy the California Fire Code and related fire safety requirements.

### **B. Design**

The design of a parklet includes four main components: 1) **a platform** to serve as an extension of the adjacent sidewalk; 2) **railings** that visually and physically define the parklet exterior; 3) **traffic safety protections**; and 4) **furnishings and fixtures** to serve customers or members of the public. Below, please find an overview of the requirements and standards for these components.

#### **1. Platform Design**

Platforms must be constructed to withstand wear, tear, and weather and treated with a non-skid coating. Outdoor carpeting/artificial grass, and poured concrete platforms, are prohibited. The platform threshold must be flush with the sidewalk or ramped, as appropriate for safety. The parklet must provide adequate access under the platform to allow for maintenance, repair, and gutter clearing. All platforms must provide adequate curbside drainage flow and may not block gutters.

Regarding flood safety, platforms must be designed and anchored to prevent flotation, collapse, or lateral movement and allow for the free flow of water in the floodway as required by FEMA. To ensure stability in the event of a high water event, platforms must be bolted or otherwise permanently affixed to the roadway for safety purposes. The platform must comply with applicable ADA and related legal requirements, including maintaining an accessible entry, wheelchair turning space, and wheelchair landing.

#### **2. Railing and Enclosure Improvements**

The parklet railing or enclosure provides the boundary between the parklet and the street and sidewalk. It provides a safety barrier and also serves the aesthetic purpose of being visually appealing and appropriate to the surrounding area.

Parklets should have a notable, defined edge along the street front and adjacent parking stalls, which can include planters, railings, or similar improvements. Railings must be sufficiently stable (capable of withstanding 200-lbs. of force), and at least 36 inches in height, unless otherwise appropriate based on the site considering safety. Railings may not block the view of vehicle or pedestrian traffic, nor block traffic signals. Railings should be visually appropriate, and may not consist of lattice (wood or plastic,) or plastic or vinyl.

***Staff seeks direction regarding overhead parklet coverings.*** Some jurisdictions allow overhead parklet coverings for weather protection. As a starting point for discussion, staff has included overhead covering requirements on page 5 of the Parklet Guidelines. As suggested, overhead coverings for weather protection are allowed. Materials could include canopies, awnings, or umbrellas. A minimum overhead clearance of 8 feet is required. Overhead coverings are not permitted over the sidewalk, nor may they extend over the parklet edge onto the street. Coverings must not significantly impede visibility.

### **3. Traffic Protections**

Noted above, parklets shall provide a minimum one foot clearance from the lane of travel, as measured from the parking striping adjacent to the lane of travel. Parklets shall have vertical elements to make them visible to traffic, which may consist of posts or bollards, both which require reflective tape. Structural bollards may be required if deemed necessary for safety. Wheel stops in parklets located in parallel parking spaces may be required if appropriate and necessary for the safety of the site.

### **4. Furnishings and Fixtures**

Parklet furnishings and fixtures provide elements for seating, dining, and related amenities such as heating and lighting. These components should be both safe and visually appealing.

First, with respect to appropriate aesthetics, plastic or vinyl outdoor furniture is not permitted. Built-in seating is encouraged and can be integrated in creative ways, including combining with planters, the structure, or other creative features within the parklet. Landscape elements must be included and may consist of elements such as a container planter that serves as a buffer along the street-facing edge, hanging planters, green walls, or similar features. Lighting is encouraged, and must not be directed towards the roadway to cause glare. String lights must be hung sufficiently to allow for safety clearance above the parklet platform and sidewalk.

Second, regarding safety, outdoor space heaters are allowed if approved for outdoor use, located in accordance with the manufacturer's safety instructions, and located from the edge of any overhead covering, foliage, or any flammable object per the manufacturer's requirements and the Building and Fire Code. Outdoor heaters must be stored inside when there is reasonable chance of a heavy rain event, including flooding. Movable furniture should be removed and stored after-hours, or locked with cables to the parklet structure. Wiring and chords must be exterior rated and may not create a tripping hazard. At no time should the Parklet be used for storage and furnishings may stay out if set up for their intended use only.

**Staff seeks direction regarding signage.** The Town’s parklets currently include business signage, and many jurisdictions allow commercial signs on parklet fronts. As a starting point for discussion, staff has included language regarding parklet signage on page 6 of the Parklet Guidelines. As suggested, parklet signage is allowed if the total area does not exceed 6 square feet (24 x 36 inches). Illuminated signs are prohibited. Signage design must correlate with the signage on the primary building. Public parklets must have two Town-designated signs indicating that the space is open for general public use.

## **5. Other Design Criteria**

All parklet materials should be constructed of durable materials that are aesthetically appropriate and in-keeping with the site, and may include materials such as steel, finished wood, and salvaged building materials. Visible pressure treated wood and plywood are not allowed. Sustainable and locally-sourced materials are encouraged. Use of plastic material is strongly discouraged.

### **C. Operational Standards**

Operational standards govern the maintenance of a parklet. In general, the permittee must maintain the parklet in good condition and repair, and free from debris and damage. For safety, no outdoor food preparation is allowed, nor any open flame. Alcohol service is allowed if the business has a valid license from the California State Department of Alcohol and Beverage Control (“ABC”) and the operator complies with all applicable ABC requirements.<sup>1</sup>

### **D. Permit Requirements**

Note above, parklets will be allowed pursuant to an encroachment permit for parklet use, on a form and with submittals as required by the Public Works Department. Plan sets must also include the dimensions of the structure, location of adjacent utilities and curb drainage, and must meet all ADA requirements, comply with Building and Fire Codes, and all other applicable codes. Evidence of current insurance coverage is required, including all Town required insurance certificates and endorsements.

A permittee with a Temporary Outdoor Activities permit may continue to operate for an additional 12 months from the effective date of the Parklet Ordinance, after which time the parklet must comply with all requirements. Private parklets would operate during the same hours of operation as the sponsoring business, and would not be open to the public after-hours.

### **E. Enforcement, Emergencies, and Removal**

It is important that parklets are maintained in compliance with Town rules and the conditions on each individual encroachment permit. As such, a parklet permittee who fails to comply with the Parklet Ordinance, Parklet Guidelines, and/or the conditions of the encroachment permit, may be

---

<sup>1</sup> In response to the popularity of parklets and to assist business, Governor Newsom recently signed legislation, Senate Bill 314 (the “Bar and Restaurant Recovery Act”), which extended many aspects of the Governor’s emergency order regarding alcohol service, including alcohol service in parklet areas.

subject to violations and fines in the Town Code. The Public Works Director may also suspend or revoke a permit if it is determined that Town rules or encroachment permit conditions are being violated. When the operation or condition of a parklet constitutes an immediate hazard, such as during a flood event, the Town may immediately abate the hazard.

Upon the termination of the parklet, the permittee must remove all improvements and furnishings at its own expense, and return the space to its original condition. The permittee shall reimburse the Town for any expenses it may incur in removing or repairing any residual items or damage.

## **F. Fees**

*Staff seeks direction regarding fees.* In allowing temporary parklets, the Town has not charged fees for the use of public parking spaces. As business activity transitions away from social-distancing requirements, parklets are no longer necessary for Covic-19 reasons, but have enhanced and activated the commercial areas of Town. The elimination of on-street parking spaces for the benefit of a private business warrants consideration of fees for the use of public space.

As proposed in the draft Ordinance, a permittee for a private parklet would be required to pay an application fee and an annual fee in an amount determined by Town Council Resolution. Public parklet are not subject to fees.

Regarding the application fee, staff suggests that a fee be based on staff hours spent to process the application.

Staff suggests that the annual parklet fee be based on the amount to cover the costs of the parking meter revenue lost to the parklet, and an amount to cover the costs of Town staff monitoring the permit.<sup>2</sup>

Any fee approval would require an amendment to the Town's Fee Schedule. Once directed, staff will return to the Town Council with a Resolution amending the fee schedule at a future date.

## **G. Insurance and Indemnification**

Each permittee must maintain required insurance as set forth in the Parklet Ordinance, which will be included as a condition of the encroachment permit, with a combined general liability single limit of at least one million dollars per occurrence covering the permittee's operations in the parklet area. Additionally, the permittee will be required to defend, indemnify, and hold harmless the Town and associated parties from and against any claims of injury, damage, or loss resulting from the operation of the parklet.

---

<sup>2</sup> Please note that the amount of an application fee may not exceed the costs of processing the permit, and the amount of an annual fee may not exceed the Town's cost to administer the permit and the projected loss of parking revenue due to the loss of parking spaces that will be converted to parklets.

## **H. Temporary Extension**

As noted above, any business operating a parklet under a Temporary Outdoor Activities Permit will be allowed to continue this use for an additional 12 months from the effective date of the Parklet Ordinance. After this time, any party who wishes to continue the parklet use may apply under the new rules and fees.

## **CONCLUSION**

Staff recommends that the Town Council adopt the Parklet Ordinance and approve the Resolution to adopt the Parklet Guidelines. Alternatively, staff seeks direction regarding the proposed Parklet Ordinance and/or Parklet Guidelines. Staff also seeks direction regarding the establishment of a fee, which will be returned to the Town Council for consideration at a future date.

## **CEQA**

The proposed Parklet Ordinance and the Parklet Guidelines are categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15301(c), as a minor alteration to existing public or private facilities.

## **CONSISTENCY WITH GENERAL PLAN**

The proposed Parklet Ordinance and the Parklet Guidelines are consistent with the goals and policies of the Town’s General Plan to preserve, maintain, and enhance the character and quality of life in San Anselmo; and are consistent with the Town’s Climate Action Plan since it will encourage pedestrian use of the downtown area and utilize outdoor spaces.

## **NOTICE**

A copy of the public hearing notice for this item was published in the *Marin Independent Journal* newspaper.

Respectfully submitted,

Sean Condry, P.E., C.B.O  
Public Works Director

Dmitriy Laptev  
Public Works Project Coordinator

Emily Longfellow  
Assistant Town Attorney

**Attachment A:** Ordinance Amendment to the Town of San Anselmo Municipal Code amending Title 7 “Public Works” adding Chapter 14 “Parklets”.

**Attachment B:** Town Council Resolution approving “Parklet Guidelines”.

**Attachment C:** Parklet Guidelines