

ORDINANCE NO. 6134

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE SANTA BARBARA MUNICIPAL CODE BY THE ADDITION OF CHAPTER 9.180 RELATING TO PARKLETS IN THE PUBLIC RIGHT OF WAY

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS

FOLLOWS:

SECTION 1. Title 9 of the Santa Barbara Municipal Code is amended by adding Chapter 9.180 to read as follows:

Chapter 9.180 Parklets in Public Right of Way

- 9.180.010 Purpose**
- 9.180.020 Definitions**
- 9.180.030 General Authorization**
- 9.180.040 Prohibited Areas**
- 9.180.050 Location Requirements**
- 9.180.060 Requirements Applicable to All Parklets**
- 9.180.070 Assumption of Risk and Liability**
- 9.180.080 Administration**
- 9.180.090 Parklet License Required**
- 9.180.100 Parklet License Application**
- 9.180.110 Application Processing and Issuance**
- 9.180.120 Environmental Review**
- 9.180.130 Parklets in the Coastal Zone**
- 9.180.140 Design Review**
- 9.180.150 Annual License Fee**
- 9.180.160 Parklet License Term and Renewal**
- 9.180.170 No Vesting of Rights**
- 9.180.180 Abatement**

9.180.010 Purpose.

The purpose of the regulations and standards in this Chapter are to supplement the opportunity for increased business and pedestrian traffic on sidewalks under Chapter 9.95 of this Code by providing safe and visually appealing opportunities for placement of facilities for outdoor dining within parking spaces on City streets.

9.180.020 Definitions.

A. "Eating and drinking establishment" means a business engaged in serving prepared food or beverages typically for on-site consumption, as described in Section

30.295.040 of this Code, and includes establishments that are exclusively eating or drinking.

B. "Outdoor dining" means the service or consumption of food or beverages in conjunction with the operation of an eating and drinking establishment.

C. "Parklet" means a structure used exclusively for outdoor dining located within one or more parking spaces on a City street.

D. "Parking space" means the area of a City street set aside for parking of vehicles between the curb face and vehicular travel way having a width of 7 feet perpendicular to the curb and a length of 20 feet parallel to the travel way unless a different dimension has been designated by striping or other painted street markings. In areas designed for diagonal parking, the width of a parking space will be determined by the painted striping and the depth will be a distance of 20 feet measured from the curb face along each side.

E. "Street Frontage" means the area measured along any front lot line, as described in Section 30.15.110 of this Code. If a lot has more than one business along a frontage, the frontage for the parklet is limited to the frontage of the eating or drinking establishment for which the parklet is licensed.

9.180.030 General Authorization.

A. Notwithstanding Chapter 9.48 of this Code, parklets may be located in parking spaces on City streets adjacent to eating and drinking establishments in compliance with all requirements of this Chapter, except as otherwise provided in Section 9.180.040. Parklets licensed and placed under this Chapter will be considered permitted temporary, minor encroachments and not subject to any other provision of this Code governing issuance of permits for encroachments on City streets.

B. This Chapter does not apply to outdoor business facilities authorized under Chapter 31.30 of this Code. The City Engineer may require outdoor business facilities authorized under Section 31.30.040 C to install traffic safety barriers.

C. A parklet may be operated in conjunction with outdoor dining authorized under Chapter 9.95 provided that the eating or drinking establishment has obtained separate authorization for the outdoor dining area under Chapter 9.95 and for the parklet under this Chapter.

9.180.040 Prohibited Areas.

A. Parklets are prohibited on:
1. All one-way streets having two or more travel lanes.
2. All two-way streets having two or more travel lanes in any one direction.

B. Parklets are prohibited on Coast Village Road.

9.180.050 Location Requirements.

A. An eating and drinking establishment may locate a parklet in the parking spaces that are entirely within the establishment’s street frontage.

B. An eating and drinking establishment may not locate a parklet in any of the following areas:

1. A parking space where parking is entirely prohibited as designated by a posted sign or red curbing.

2. A parking space reserved for parking by persons with disabilities as designated by a posted sign or blue curbing.

3. A parking space designated as a pedestrian loading zone (white curb) or as a commercial loading zone (yellow curb) unless a replacement loading zone is approved by the City Engineer.

4. A parking space immediately adjacent to an intersection of two streets or a street and an alley as determined by the City Engineer.

5. A parking space immediately adjacent to a crosswalk as determined by the City Engineer.

6. Within 15 feet of a fire hydrant.

7. Where the parklet would interfere with a designated safe path of travel for a parking space designated for persons with disabilities as determined by the City Engineer.

8. Where the parklet would interfere with access to essential utility facilities located within or adjacent to the parking space as determined by the City Engineer.

9. Where the parklet would interfere with the normal operation of storm drains or storm drain facilities as determined by the City Engineer.

10. Along the shoulder of any street that does not have a curb, gutter, and sidewalk except as otherwise permitted by the City Engineer.

11. Where the speed, volume, or nearness of vehicular traffic or proximity to a driveway is not compatible with placement of a parklet as determined by the City Engineer.

9.180.060 Requirements Applicable to All Parklets.

A. The parklet owner must construct, operate, and maintain the parklet in compliance with the applicable accessibility provisions of the Americans with Disabilities Act and Chapter 11B of Title 24 of the California Code of Regulations. The Public Works

Director may require an owner to submit a report by a person certified under California Government Code Section 44559.5 (commonly referred to as a "CASp") demonstrating compliance accessibility requirements before issuance of a Parklet License and at any time during the term of a license.

B. A parklet is considered use of public space and not part of the occupancy of the licensed eating and drinking establishment.

C. A parklet must be protected by traffic safety barriers approved by the City Engineer. The traffic safety barrier may be integrated into the parklet design as approved by the City Engineer. The City Engineer is directed to maintain standard specifications for the type and location of approved traffic barriers.

D. A parklet may be used solely for the purpose of serving or consuming food or beverage of the licensed eating and drinking establishment. Adjoining eating and drinking establishments may establish joint or attached parklets.

E. Outdoor cooking facilities are prohibited. Portable heaters and lighting are permitted as approved by the Fire Marshal. Portable gas heaters must have tanks and may not be directly connected to building plumbing systems. Lighting and other electrical equipment must be either solar powered or connected to the building electrical system and not connected to the City street electrical systems. Gas generators are prohibited.

F. Service of alcoholic beverages is permitted as authorized by and subject to the requirements of the license issued by the California Department of Alcoholic Beverage Control to the licensed eating and drinking establishment or as otherwise authorized by state law.

G. A parklet may not exceed 80 inches in width or have sides exceeding 42 inches or posts exceeding 82 inches in height measured from the surface of the right of way. Roofs, overhead structures, and shade canopies are prohibited. Umbrellas are permitted but may not extend beyond the edge of the parklet and must maintain a height clearance of not less than 6 feet 8 inches along pedestrian paths of travel and not exceed a height of 10 feet. The City Engineer may further limit the height and width of a parklet based on site specific safety reasons.

9.180.070 Assumption of Risk and Liability.

A. By placing a parklet, the owner assumes all risk and agrees to defend, indemnify, and hold harmless the City and its officers, employees, and agents from and against any liability arising from the existence, use, or condition of the parklet or any of its facilities, equipment, or furnishings.

B. The parklet owner must maintain insurance at coverage limits and with conditions thereon determined from time to time by the Risk Manager. The parklet owner must maintain a current certificate of insurance on file with the Risk Manager. The

certificate of insurance must be provided to the Public Works Director before approval of a parklet license.

9.180.080 Administration.

A. The Public Works Director is responsible for the administration and enforcement of this Chapter, including the issuance and enforcement of parklet licenses. The Public Works Director may delegate authority under this Subsection. Reference to the Public Works Director includes reference to any employee to whom the director has delegated authority under this Subsection.

B. The Public Works Director is authorized to promulgate and issue administrative policies for the implementation and administration of this Chapter.

9.180.090 Parklet License Required.

It is unlawful for a person to place or cause to be placed a parklet unless the person has first obtained a parklet license issued by the Public Works Director. It is unlawful for a person to operate and maintain a parklet except in full compliance with the license issued for the parklet.

9.180.100 Parklet License Application.

A. A person considering applying for a parklet license must request a pre-application review of the proposed parklet by the Public Works Department. The request must be submitted on a form provided by the Public Works Director. The request must be accompanied by a pre-application review fee as established by City Council resolution. Pre-application review is advisory and non-binding.

B. To obtain a parklet license, the owner of an eating and drinking establishment or the owner's authorized agent must submit an application to the Public Works Director using the application form provided by the director. The application must be complete and include any supporting materials necessary to accurately describe existing conditions and the proposed parklet as required by the Public Works Director, including all information required for design review under Section 9.180.150 and to determine compliance with accessibility requirements under Title 22 of this Code. Applications and all application materials are public records subject to public review. The application must be accompanied by an application processing fee in an amount established by resolution of the City Council. An application will not be accepted as complete and processed without payment of the application processing fee.

9.180.110 Application Processing and Issuance.

A. The Public Works Director will review a complete application and in consultation with the City Engineer determine if the proposed parklet meets the requirements of Sections 9.180.040, 9.180.050, and 9.180.060. The Public Works Director will deny an application if the Director determines that the proposed parklet does not meet the requirements of Sections 9.180.050 and 9.180.060. The Director will state the reasons for the denial in writing provided to the applicant. The Director's decision is final and not subject to further administrative appeal.

B. If the Public Works Director determines that the proposed parklet meets the requirements of Sections 9.180.040, 9.180.050, and 9.180.060, then the Director will refer the application to the Community Development Department for design review; if the proposed parklet does not qualify for administrative design review, the Community Development Department will advise the applicant of the requirement to file an application for design review. The Public Works Director will inform the applicant in writing of the referral. If the parklet is located in the Coastal Zone, the Public Works Director will advise the applicant of the requirement to file an application for a coastal development permit according to Section 9.180.130 and the applicable provisions of Titles 28 and 30.

C. Upon completion of the review under Subsection B, and issuance of a coastal development permit if applicable, the Community Development Director will return the application to the Public Works Director with a report of the terms and conditions established through that review process and by the coastal development permit, if applicable. The Public Works Director may then take final action to approve, conditionally approve, or deny the application and to issue a parklet license subject to all of the terms and conditions established by the review process.

D. A parklet license will be in the form of an agreement, approved by the City Attorney, and executed by the owner of the eating and drinking establishment.

9.180.120 Environmental Review.

Issuance of a parklet license is categorically exempt from CEQA under Section 22.100.70, Subsections C.1. and C.3. of this Code.

9.180.130 Parklets in the Coastal Zone.

In addition to a parklet license, parklets in the Coastal Zone, as defined in Section 28.44.020 of this Code, are subject to the permitting requirements for development in the Coastal Zone. An application for a coastal development permit may not be submitted until the Public Works Department makes a preliminary determination that a proposed parklet meets the requirements of Sections 9.180.040 and 9.180.050. A parklet license will not be issued until the coastal development permitting process has been completed, including the expiration of any appeal period.

9.180.140 Design Review.

A. Parklets are subject to design review under Section 22.68.090 and Title 30 of this Code.

B. The type and location of the traffic safety barriers for a parklet as required under Section 9.180.060 C are not subject to design review; provided, however, that if the City Engineer establishes a list of approved traffic safety barriers, then the design body may specify a barrier from the list during design review for a parklet; and the design review body may specify coloring, coating, or other aesthetic features of the traffic safety barriers as part of the design review for a parklet. Except as limited by this Subsection, all other aspects of a parklet are subject to design review.

C. The Public Works Director may adopt design guidelines for parklets and for traffic safety barriers. Separate guidelines may be adopted for areas subject to the respective jurisdictions of the Historic Landmarks Commission and the Architectural Board of Review, subject to approval by Historic Landmarks Commission and the Architectural Board of Review, as applicable. Parklets consistent with the adopted guidelines may be approved by the Community Development Director without full review by the Historic Landmarks Commission or Architectural Board of Review, as applicable.

9.180.150 Annual License Fee.

A parklet owner must pay the annual parklet license fee in the amount established by resolution of the City Council. The parklet license fee is a fee for the use of City property and is not a regulatory or permit processing fee. The annual fee must be paid in advance and no refund will be given for early abandonment or termination of a license.

9.180.160 Parklet License Term and Renewal.

A. A parklet license may have a duration of not less than one or more than five years as determined by the Public Works Director.

B. A parklet license may be renewed upon submission of a renewal application. The Public Works Director may renew a parklet license upon a determination that the license holder has faithfully performed the terms of the license. The renewal term may be up to five years as determined by the Public Works Director. A renewed license may be subsequently renewed. The renewal application must be accompanied by a fee in an amount established by resolution of the City Council.

9.180.170 No Vesting of Rights.

A parklet license is a revocable license and not an easement, lease, or other interest in land. A parklet license does not confer any vested right to continue any activity or use authorized thereunder. Parklets, regardless of the duration of a parklet license or any renewals, are considered temporary and are subject to removal upon demand of the City.

9.180.180 Abatement.

A. The Public Works Director may immediately remove and dispose of any parklet for which a parklet license has not been issued or for which the parklet license has expired and not been renewed. The owner is responsible for payment to the City of the cost of removal and disposal.

B. In addition to any enforcement remedy under Chapters 1.25 or 1.28 of this Code, violation of a term or condition of a parklet license may result in revocation of the license upon written notice by the Public Works Director. A business owner may appeal revocation to the City Administrator by filing a written appeal within 7 days of the date of the notice. The decision of the City Administrator is final. Notices under this Subsection may be given to the address of the person stated on the parklet license or posted on the parklet.

SECTION 2.

A. This section establishes special provisions for parklets established under Ordinance No. 6055 and existing on the date of introduction of this Ordinance.

B. Existing parklets located on a street on which parklets are prohibited by Section 9.180.040 must remove the parklet by January 1, 2024.

B. Subject to compliance with Sections 9.180.040, 9.180.050, and 9.180.060, parklets established under Ordinance No. 6055 and existing on December 20, 2023, may remain after December 31, 2023, subject to all of the following:

1. The parklet owner submits a preliminary review application on a form provided by the Public Works Director not later than February 1, 2024. A parklet owner who has not submitted a preliminary application by February 1, 2024, must remove the parklet by February 9, 2024.

2. The parklet owner applies for a parklet license under the provisions of Chapter 9.180 as adopted by this ordinance no later than May 3, 2024.

3. The parklet is not located on a street on which parklets are prohibited by Section 9.180.040 and further complies with the requirements of Sections 9.180.050, or 9.180.060.

4. Parklets for which a preliminary review application is submitted that do not comply with the requirement for a traffic safety barrier on the date of adoption of this ordinance must be brought into compliance with that requirement no later than March 14, 2024.

5. The parklet owner is issued a parklet license and brings the parklet into compliance with the license no later than December 31, 2024.

6. The parklet owner pays an annual fee as provided in Section 9.180.160 on a monthly basis starting February 1, 2024, while the application is pending.

C. A parklet owner who has submitted a preliminary application but has not submitted an application under Chapter 9.180 by May 3, 2024, must remove the parklet by May 9, 2024.

ORDINANCE NO. 6134

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing ordinance was introduced on December 5, 2023 and adopted by the Council of the City of Santa Barbara at a meeting held on December 12, 2023, by the following roll call vote:

AYES: Councilmembers Alejandra Gutierrez, Oscar Gutierrez, Mike Jordan, Kristen W. Sneddon, Mayor Randy Rowse

NOES: Eric Friedman, Meagan Harmon

ABSENT: None

ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on December 14, 2023.



Sarah Gorman

Sarah Gorman, MMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing ordinance on December 14, 2023.

Randy Rowse

Randy Rowse
Mayor