ORDINANCE NO.  ORD-18-0031

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING AND RESTATING
CHAPTER 14.14, AND BY ADDING CHAPTER 14.15; ALL
RELATING TO SIDEWALK DINING AND PARKLETS
WITHIN THE CITY'S RIGHT-OF-WAY

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 14.14 of the Long Beach Municipal Code is amended and restated to read as follows:

Chapter 14.14

OCCUPATION OF PUBLIC WALKWAYS


A. "Dining" means the consumption of food or beverage.

B. "Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queens Way Landing boat basin.

C. "Existing permit" means a public walkways occupancy permit
1. "Public property" means all City property, including "public walkways", as defined in this Chapter, and public rights-of-way, and the underlayment or foundation thereof, and public improvements thereon, including landscaping on or in such property.

2. "Public walkways" means all or any portion of territory within the City set apart and designated for the use of the public as a thoroughfare for travel, including alley and sidewalk which is generally considered the right-of-way between the curbline and the adjacent property line intended for use by pedestrians.

3. that has been issued by the City through its Department of Public Works.

4. "Existing permit in good standing" means a public walkways occupancy permit that has been issued by the City and is compliant with all laws and regulations, including the terms and conditions attached to that permit.

5. "Existing permit in good standing" does not include a permit the term of which has expired prior to the submission of a completed application for renewal, including all required documentation.

6. "Minor modification of an existing permit" means a reconfiguration of the area occupied or a change of equipment or fixtures within the permit area with no change to the total square footage occupied, unless the Director of Public Works deems such change to be negligible.

7. "Obstruction" means any temporary or permanent structure or stationary object, including, but not limited to, signs, displays, barriers, furniture, plants or plant containers, musical equipment, or merchandise placed on a public walkway.

8. "Portable" means items capable of being carried or moved about without the use of heavy moving equipment.

9. "Public property" means all City property, including "public walkways", as defined in this Chapter, and public rights-of-way, and the underlayment or foundation thereof, and public improvements thereon, including landscaping on or in such property.

10. "Public walkways" means all or any portion of territory within the City set apart and designated for the use of the public as a thoroughfare for travel, including alley and sidewalk which is generally considered the right-of-way between the curbline and the adjacent property line intended for use by pedestrians.
A. No person shall use or occupy the public walkway with any obstruction for any purpose without first obtaining a written permit from the City through its Department of Public Works. Permits are not transferable. This Chapter shall not be applicable to any activity performed pursuant to and permitted by other Chapters of this Code.

B. Permits may only be issued to owners of property directly adjoining that portion of the public walkway upon which the obstruction is to be located, or to lessees of such property with the consent of the property owner.

C. The permit may be suspended or canceled at any time at the discretion of the Director of Public Works, in the event that it is determined that the obstruction would interfere with street improvement activities, construction activities, cleaning efforts or other similar activities. The permit may also be suspended at any time, if, in the discretion of the City Engineer or Fire Marshal, the obstruction threatens the public health or safety.

D. Permits for occupancy may contain restrictions for hours of the day or days of the week during which the obstruction may occupy a public walkway as determined by the Director of Public Works in his or her discretion.

E. Permits shall be issued for an initial period not to exceed one (1) year. Upon expiration, a new permit must be obtained on the basis of a new application or a renewal permit must be obtained. Notwithstanding the above, such permits may be terminated by the City upon thirty (30) days' notice of the City Engineer.

F. The Director of Public Works or designee is authorized to renew an existing permit in good standing for additional one (1) year periods provided either: (1) the applicant is not seeking any modification of the existing permit or (2) any modification sought by either the applicant,
City Engineer or the Fire Marshal is deemed by the Director of Public Works
to be a "minor modification of an existing permit", as defined in Section

G. No permit obtained under this Chapter shall excuse the
permittee's obligation to obtain and comply with any other permit or license
required by the City or any other regulatory agency.


A person desiring to occupy a public walkway shall file an application
for such authorization with the City. The applications shall be on a form
provided by the City or accessible from the City's website and shall be
signed by the permittee or his/her duly authorized agent. Any person signing
the application as an agent shall furnish a written authorization executed by
the permittee designating the person signing the permit as the permittee's
duly authorized agent for such purpose. Such authorization will remain in full
force and effect until revoked by a written document signed by the permittee
and filed with the City. Such application shall be accompanied by plans
satisfactory to the City, which show in detail the proposed obstruction and
method of securing it to public property including public infrastructure.


A. Every applicant for a public walkway occupancy permit under
this Chapter shall pay to the City, before a permit is issued, an annual fee
as adopted by the City Council by resolution and specified in the fee
schedule.

B. Every applicant for a public walkway occupancy permit under
this Chapter shall pay to the City a security deposit in an amount equivalent
to the permit fee or in such additional amount as determined by the City
Engineer. Such security deposit shall be applied to the cost of repairing any
damage to public property attributable to the permittee's use of public
property. Any balance shall be "rolled over" until the permit is terminated or canceled, at which time the security deposit shall be applied to the cost of restoring the public property to its prior condition and the remainder, if any, refunded to the permittee.

C. In the event that any permit issued pursuant to this Chapter is canceled because the permittee has violated a condition of his or her permit or any regulation or law, or because the permittee no longer owns or controls the property directly abutting the portion of the public walkway upon which the obstruction is located, no portion of a permit fee paid by him or her shall be refunded. If the permit is canceled by the City for any other reason, the unearned portion of the permit fee shall be refunded.


The public walkway occupancy standards for location, design and operations shall comply with the City of Long Beach Sidewalk Dining and Parklets Handbook to be made available by the City. The Director of Public Works and/or City Engineer may require additional conditions for the location, design and operation of the public walkway occupancy. In addition, any public walkway occupancy subject to the terms of this Chapter shall conform to all of the following requirements:

A. The minimum width of the public walkway shall be not less than ten feet (10'), and such obstructions must permit at least five feet (5') of unobstructed area of public walkway, unless otherwise approved by the City Engineer on the basis of the considerations specified in this Chapter;

B. The obstruction shall not be located in a manner which interferes with the flow of pedestrian or other traffic, or which creates a potential threat to public safety, as determined by the City Engineer or Fire Marshal;

C. The obstruction shall be kept in a good state of repair and in a
safe, sanitary and attractive condition;

D. Such obstruction shall be located in a manner which will not interfere with visibility, vehicular or pedestrian mobility or access to City or public utility facilities and will not compromise the safe use of any public walkway or other right-of-way. Permitted locations shall be determined by the City Engineer after consideration of the above and other relevant factors in relation to the proposed site. The City Engineer may, in his or her discretion, place additional conditions upon the issuance of such permit in order to ensure the protection of the public health and welfare and public property.

E. Minor modifications to these standards may be made by the Director of Public Works to an existing permit in good standing.


A. No person may occupy or cause to be occupied any portion of the public walkway for the purpose of providing dining or entertainment except as permitted by this Chapter or as elsewhere provided for in this Code.

B. Permits to occupy a portion of the public walkway for the purposes of dining or entertainment may contain restrictions for hours of the day or days of the week during which dining or entertainment may occur on the public walkway as determined or modified by the Director of Public Works in his or her discretion.

C. In addition to the other requirements set forth in this Chapter, permits to occupy a portion of the public walkway for the purpose of dining or entertainment shall conform to all of the following standards:

1. All dining or entertainment areas shall be defined by placement of sturdy barriers, not to exceed forty-eight inches (48") in height, as approved by the City Engineer.
2. All accessories to dining or entertainment uses such as plants or planter boxes, umbrellas, podiums, menu boards, musical equipment and heaters must be located inside the barrier.

D. All dining and entertainment which takes place on the public walkway and public right-of-way shall conform to the requirements of Chapter 8.80 of this Code regarding noise. Complaints regarding noise shall be logged by City staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.

E. The permittee shall be responsible for cleaning the public walkway occupied by a dining or entertainment area.

F. Canopy structures, including overhead structures and windbreaks, are permitted, provided such structures are approved as part of a public walkway occupancy permit and are consistent with any approved master plan applicable to the installation and the design guidelines. Such structures must comply with all applicable laws and regulations, including, but not limited to, all fire, health, and building code regulations. Signage on or adjacent to a canopy structure shall be limited to business identification signs and shall be included in the calculation of total signage permitted pursuant to Chapter 21.44 of this Code.

G. Temporary banners, not exceeding the height of the barrier and attached to the barrier are permitted for a two (2) week period no more than four (4) times per year.

H. Menu boards must be portable, located within the dining area, and must not exceed five feet (5'), six inches (6") tall. Menu boards may be either a single pole pedestal of painted metal or a board attached to the inside of the barrier, parallel to the barrier.

I. A-frame signs, television monitors, and canopies are not permitted at any location beyond the permit area.
Entertainment on the public right-of-way.

A. No person shall perform or cause to be performed any entertainment activity on the public right-of-way without first obtaining a public walkways occupancy permit which permits such entertainment.

B. In the downtown area, nonamplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight each day. Amplified outdoor entertainment is permitted from five o'clock (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday, except if such day is a holiday. Amplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on Saturday, Sunday and holidays.

C. This Section shall not apply to any holder of a permit issued pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of this Code.

Public walkways occupancy permit - Failure to obtain.

A. Any person who occupies any public sidewalk with any "obstruction," as defined herein, prior to obtaining a permit therefor, shall pay a fee double the fee calculated by the method prescribed in this Chapter.

B. The payment of the additional fee shall not relieve such person from the obligations imposed by this Chapter, or from penalties prescribed herein.

Indemnification of City.

A permit issued for public walkway occupancy under this Chapter shall provide that the permittee shall defend, indemnify, save and keep the City, its officers, agents and employees free and harmless from and against any and all claims for injury, damage, loss, liability, cost and expense of any name or
nature whatsoever which the City, its officers, agents and employees may suffer, sustain, incur, or pay out as a result of any and all actions, suits, proceedings, claims and demands which may be brought, made or filed against the City, its officers, agents and employees, by reason of or arising out of, or in any manner connected with, any and all operations authorized or permitted by the permit.

   A. Concurrent with the issuance of the permit, the permittee shall procure and maintain, at its cost, during the term of the permit insurance as prescribed in regulations issued by the City Manager pursuant to Section 2.84.040.
   B. Insurance required herein shall not be deemed to limit the permittee's liability under this permit.
   C. Permittee shall keep the insurance in full force and effect during the term of any public walkway occupancy permit issued pursuant to this Chapter. No permit granted pursuant to this Chapter shall be effective until the permittee has complied with all insurance requirements.
   D. Any public walkway occupancy permit so terminated may be reinstated only upon application therefor submitted and approved by the City and upon the payment of twenty dollars ($20.00) per day for every day on which no insurance was provided and also upon payment of all sums due and unpaid to the City under the provisions of this Chapter, as well as full indemnification during the uninsured period.


Upon the termination of the public walkway occupancy permit by reason of the failure of the permittee to comply with the provisions of this Chapter, the City may notify the permittee in writing of the default and specify the time within which the default is to be remedied. If the permittee fails or
refuses to remedy the default within the period of time specified, the right of permittee to use the public walkway shall cease and the City shall have the right to remove the public walkway obstruction as provided under this Chapter. The permittee shall reimburse the City for any expense incurred by the City in removing the obstruction. Should the permittee continue to use the public walkway after the permit has been terminated and should the City file suit to restrain the use of the public walkway by permittee, the permittee shall reimburse the City for its reasonable costs and expenses in connection therewith, including a reasonable attorney fee.


A. The Director of Public Works or City Engineer may revoke, refuse to issue or renew a public walkway occupancy permit if such person has failed or refused:

1. To pay any fees for permits, security deposits or charges as established by the City Council;

2. To repair public improvements damaged as a result of the occupancy of the public walkway;

3. To comply with the terms of this Chapter or of a permit granted hereunder.

B. The Director of Public Works may also refuse to issue or renew a permit for public walkway occupancy in an area where such occupancy will be inconsistent with the public's use of the public walkway, access needs or the use of any property located adjacent to the public walkway.


Except for minor modifications to an existing permit, any other determination or modification to an existing permit made by the Director of Public Works or City Engineer may be appealed to the City Council within ten
(10) calendar days from the date of such determination or modification in the manner provided in this Section.

A. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Director of Public Works.

B. If the appeal is made by a permittee involving such permittee's existing permit, such appeal shall be accompanied by an appeal deposit in an amount determined by the City Council by resolution. For appeals made by any person other than the permittee, there shall be no required appeal deposit.

C. The City Council shall conduct a hearing on the appeal or refer the matter to a Hearing Officer, pursuant to Chapter 2.93 of this Code, within sixty (60) business days from the date the completed request for appeal was received by the Director of Public Works, except where good cause exists to extend this period. The appellant shall be given at least ten (10) business days written notice of such hearing. The hearing and rules of evidence shall be conducted pursuant to Chapter 2.93 of this Code. The determination of the City Council on the appeal shall be final.

14.14.200 Public walkways occupancy permits for gym or fitness uses - pilot project at 333 Pine Avenue.

In addition to the other requirements set forth in this Chapter, the following conditions shall apply to the occupancy of public walkways, or extensions thereof, for the purposes of providing for gym or fitness uses:

A. No person may occupy or cause to be occupied any portion of the public walkways, or extensions thereof, for the purposes of gym or fitness uses except as permitted by this Chapter or as elsewhere provided for in this Code.

B. The occupancy of the public walkways, and extensions
thereof, for gym or fitness uses covered by this Chapter shall be limited to a
pilot project for the area located adjacent to 333 Pine Avenue, Long Beach,
California 90802.

C. The applicant for a public walkways occupancy permit for the
purposes of gym or fitness uses shall pay to the City, before a permit is
issued, an annual fee as adopted by the City Council by resolution and
specified in the fee schedule on file in the office of the City Engineer. If the
occupancy includes an extension of the public walkway, the annual fee
shall be based on a formula related to the square footage of public rights-of-
way occupied by permittee. The fee will be prorated for permits granted
mid-year.

D. Permits to occupy a portion of the public walkway, and
extensions thereof, for the purposes of gym and fitness uses may contain
restrictions for hours of the day or days of the week during which gym or
fitness uses may occur on the public walkway as determined the Director of
Public Works or City Engineer in their sole discretion.

E. Permits to occupy a portion of the public walkway, and
extensions thereof, for the purposes of gym or fitness uses shall conform to
all of the following standards:

1. All gym and fitness use areas shall be defined by
placement of sturdy barriers. Unless otherwise approved by the City
Engineer, such barriers must be affixed to the public walkway or extensions
thereof. The manner of affixing such barriers is subject to the prior approval
of the City Engineer;

2. All gym equipment and any other accessories to fitness
uses such as exercise equipment machines, stationary bicycles, storage
benches and tables, as well as any plants or planter boxes, umbrellas,
podiums, board displays, musical equipment and heaters must be located
inside the barrier; and

3. Any other standards, specifications, guidelines or conditions as may be prescribed by the City Engineer in his/her sole discretion.

F. All gym and fitness uses which take place on the public right-of-way shall conform to the requirements of Chapter 8.80 of this Code regarding noise. Complaints regarding noise shall be logged by City staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.

G. The permittee shall be responsible for cleaning the public walkway, or extensions thereof, occupied by a gym or fitness use area.

H. This Section shall remain in effect until revoked by the City Council.

Section 2. Chapter 14.15 is added to the Long Beach Municipal Code to read as follows:

Chapter 14.15

PARKLETS

14.15.010 Definitions.

A. "Dining" means the consumption of food or beverage.

B. "Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its
prolongation across the entrance to Pacific Terrace Harbor and Queens Way Landing boat basin.

C. "Existing permit" means a permit that has been issued by the City through its Department of Public Works, or the City Council for uses other than dining, entertainment, seating, planting, landscaping, lighting, shade, bicycle parking and/or artwork.

D. "Existing permit in good standing" means a permit that has been issued by the City and is compliant with all laws and regulations, including the terms and conditions attached to that permit. "Existing permit in good standing" does not include a permit the term of which has expired prior to the submission of a completed application for renewal, including all required documentation.

E. "Minor modification of an existing permit" means a reconfiguration of the area occupied or a change of equipment or fixtures within the permit area with no change to the total square footage occupied, unless the Director of Public Works deems such change to be negligible.

F. "Obstruction" means any temporary or permanent structure or stationary object, including, but not limited to, signs, displays, barriers, furniture, plants or plant containers, musical equipment, or merchandise placed on a public walkway or other right-of-way.

G. "Parklet" or "sidewalk extension parklet" means a small area open to public use, utilizing one or more on-street parking spaces and may include adjacent public walkways or other right-of-way, that may combine elements including dining, entertainment, seating, planting, landscaping, lighting, shade, bicycle parking and/or artwork.

H. "Permit" or "parklet permit" means a public walkways occupancy with sidewalk extension parklet permit issued by the City through its Department of Public Works.
I. "Portable" means items capable of being carried or moved about without the use of heavy moving equipment.

J. "Public property" means all City property, including "public walkways", as defined in this Chapter, and public rights-of-way, and the underlayment or foundation thereof, and public improvements thereon, including landscaping on or in such property.

K. "Public walkways" means all or any portion of territory within the City set apart and designated for the use of the public as a thoroughfare for travel, including alley and sidewalk which is generally considered the right-of-way between the curbline and the adjacent property line intended for use by pedestrians.

14.15.020 General requirements.

A. No person shall use or occupy the public walkway or other right-of-way with any obstruction for providing a parklet without first obtaining a written permit from the City through its Department of Public Works; provided, however, the permit shall be obtained from the City Council if the proposed parklet will occupy more than ten percent (10%) of the available parking spaces within a two (2) block radius, or will be for uses other than dining, entertainment, seating, planting, landscaping, lighting, shade, bicycle parking and/or artwork. Permits are not transferable. This Chapter shall not be applicable to any activity performed pursuant to and permitted by other Chapters of this Code.

B. Permits may only be issued to owners of property directly adjoining that portion of the public walkway and/or other right-of-way upon which the obstruction is to be located, or to lessees of such property with the consent of the property owner.

C. Permits for providing a parklet may only be issued for obstructions in areas located outside the coastal zone, unless a separate
Local Coastal Permit has been issued for such obstructions subject to the terms of this Chapter.

D. Permits for providing a parklet may only be issued if the vehicular speed limit of the adjoining street is no more than twenty-five miles per hour (25 mph).

E. The permit may be suspended or canceled at any time at the discretion of the Director of Public Works, in the event that it is determined that the obstruction would interfere with street improvement activities, construction activities, cleaning efforts or other similar activities. The permit may also be suspended at any time, if, in the discretion of the City Engineer or Fire Marshal, the obstruction threatens the public health or safety.

F. Permits may contain restrictions for hours of the day or days of the week during which the obstruction may occupy a public walkway and/or other right-of-way as determined by the Director of Public Works in his or her discretion.

G. Permits shall be issued for an initial period not to exceed one (1) year. Upon expiration, a new permit must be obtained on the basis of a new application or a renewal permit must be obtained. Notwithstanding the above, such permits may be terminated by the City upon thirty (30) days' notice of the City Engineer.

H. The Director of Public Works or designee is authorized to renew an existing permit in good standing for additional one (1) year periods provided either: (1) the applicant is not seeking any modification of the existing permit or (2) any modification sought by either the applicant, the City Engineer or the Fire Marshal is deemed by the Director of Public Works to be a "minor modification of an existing permit", as defined in Section 14.15.010.

I. No permit obtained under this Chapter shall excuse the...
permittee's obligation to obtain and comply with any other permit or license required by the City or any other regulatory agency.

14.15.030 Parklet permit - Application.

A. A person desiring to occupy a public walkway and/or other right-of-way for providing a parklet shall file an application for such authorization with the City. The applications shall be on a form provided by the City or accessible from the City's website and shall be signed by the permittee or his/her duly authorized agent. Any person signing the application as an agent shall furnish a written authorization executed by the permittee designating the person signing the permit as the permittee's duly authorized agent for such purpose. Such authorization will remain in full force and effect until revoked by a written document signed by the permittee and filed with the City. Such application shall be accompanied by plans satisfactory to the City, which show in detail the proposed obstruction and method of securing it to public property including public infrastructure.

B. Every applicant for a parklet permit under this Chapter shall submit to the satisfaction of the Director of Public Works, before a permit is issued, written consents from the applicable community organizations and building associations providing evidence of the organizations' approval or lack of objections to the parklet installation, loss of a parking space(s) and/or impacts on dining operations.

14.15.035 Fees, refunds and security deposits.

A. Every applicant for a parklet permit under this Chapter shall pay to the City, before a permit is issued, an annual fee as adopted by the City Council by resolution and specified in the fee schedule.

B. Every applicant for a parklet permit under this Chapter shall pay to the City a security deposit in an amount equivalent to the permit fee or in such additional amount as determined by the City Engineer. Such
security deposit shall be applied to the cost of repairing any damage to public property attributable to the permittee's use of public property. Any balance shall be "rolled over" until the permit is terminated or canceled, at which time the security deposit shall be applied to the cost of restoring the public property to its prior condition and the remainder, if any, refunded to the permittee.

C. In the event that any permit issued pursuant to this Chapter is canceled because the permittee has violated a condition of his or her permit or any regulation or law, or because the permittee no longer owns or controls the property directly abutting the portion of the public walkway or other right-of-way upon which the obstruction is located, no portion of a permit fee paid by him or her shall be refunded. If the permit is canceled by the City for any other reason, the unearned portion of the permit fee shall be refunded.

14.15.040 Parklet standards.

The parklet standards for location, design and operations shall comply with the City of Long Beach Sidewalk Dining and Parklets Handbook to be made available by the City. The Director of Public Works and/or City Engineer may require additional conditions for the location, design and operation of the parklet. In addition, any parklet subject to the terms of this Chapter shall conform to all of the following requirements:

A. The minimum width of the public walkway directly adjoining the parklet shall be not less than five feet (5'), and such obstructions must permit at least five feet (5') of unobstructed area of public walkway, unless otherwise approved by the City Engineer on the basis of the considerations specified in this Chapter;

B. The obstruction shall not be located in a manner which interferes with the flow of pedestrian or other traffic, or which creates a
potential threat to public safety, as determined by the City Engineer or Fire
Marshal;

C. The obstruction shall be kept in a good state of repair and in a
safe, sanitary and attractive condition;

D. Such obstruction shall be located in a manner which will not
interfere with visibility, vehicular or pedestrian mobility or access to City or
public utility facilities and will not compromise the safe use of any public
walkway or other right-of-way. Permitted locations shall be determined by
the City Engineer after consideration of the above and other relevant factors
in relation to the proposed site. The City Engineer may, in his or her
discretion, place additional conditions upon the issuance of such permit in
order to ensure the protection of the public health and welfare and public
property.

E. Minor modifications to these standards may be made by the
Director of Public Works to an existing permit in good standing.

14.15.045 Parklet dining permits and entertainment permits.

A. No person may occupy or cause to be occupied any portion of
the public walkway or other right-of-way for the purpose of providing dining
or entertainment within a parklet except as permitted by this Chapter or as
elsewhere provided for in this Code.

B. Permits to occupy a portion of the public walkway or other
right-of-way for the purposes of dining or entertainment within a parklet may
contain restrictions for hours of the day or days of the week during which
dining or entertainment may occur within the parklet as determined or
modified by the Director of Public Works in his or her discretion.

C. In addition to the other requirements set forth in this Chapter,
permits to occupy a portion of the public walkway or other right-of-way for
the purpose of dining or entertainment within a parklet shall conform to all of
the following standards:

1. All dining or entertainment areas shall be defined by placement of sturdy barriers, not to exceed forty-eight inches (48") in height, as approved by the City Engineer.

2. All accessories to dining or entertainment uses such as plants or planter boxes, umbrellas, podiums, menu boards, musical equipment and heaters must be located inside the barrier.

D. All dining and entertainment which takes place on the public walkway or other right-of-way within a parklet shall conform to the requirements of Chapter 8.80 of this Code regarding noise. Complaints regarding noise shall be logged by City staff and may be the basis for suspension, cancellation, or nonrenewal of a permit.

E. The permittee shall be responsible for cleaning the public walkway and other right-of-way occupied by a dining or entertainment area within a parklet, as well as any public property adjacent to the parklet.

F. Canopy structures, including overhead structures and windbreaks, are permitted, provided such structures are approved as part of a parklet permit and are consistent with any approved master plan applicable to the installation and the design guidelines. Such structures must comply with all applicable laws and regulations, including, but not limited to, all fire, health, and building code regulations. Signage on or adjacent to a canopy structure shall be limited to business identification signs and shall be included in the calculation of total signage permitted pursuant to Chapter 21.44 of this Code.

G. Temporary banners, not exceeding the height of the barrier and attached to the barrier facing the public sidewalk are permitted for a two (2) week period no more than four (4) times per year. Banners shall not be attached to the street facing sides of a parklet.
H. Menu boards must be portable, located within the dining area, and must not exceed five feet (5'), six inches (6") tall. Menu boards may be either a single pole pedestal of painted metal or a board attached to the inside of the barrier, parallel to the barrier.

I. A-frame signs, television monitors, and canopies are not permitted at any location beyond the permit area.

14.15.055 Entertainment on the public right-of-way.

A. No person shall perform or cause to be performed any entertainment activity on the public right-of-way without first obtaining a parklet permit which permits such entertainment.

B. In the downtown area, nonamplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight each day. Amplified outdoor entertainment is permitted from five o'clock (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday, except if such day is a holiday. Amplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on Saturday, Sunday and holidays.

C. This Section shall not apply to any holder of a permit issued pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of this Code.

14.15.060 Parklet permit - Failure to obtain.

A. Any person who occupies any public sidewalk or other right-of-way with any "obstruction," as defined herein, prior to obtaining a permit therefor, shall pay a fee double the fee calculated by the method prescribed in this Chapter.

B. The payment of the additional fee shall not relieve such person from the obligations imposed by this Chapter, or from penalties.
prescribed herein.

14.15.070 Indemnification of City.

A parklet permit issued under this Chapter shall provide that the permittee shall defend, indemnify, save and keep the City, its officers, agents and employees free and harmless from and against any and all claims for injury, damage, loss, liability, cost and expense of any name or nature whatsoever which the City, its officers, agents and employees may suffer, sustain, incur, or pay out as a result of any and all actions, suits, proceedings, claims and demands which may be brought, made or filed against the City, its officers, agents and employees, by reason of or arising out of, or in any manner connected with, any and all operations authorized or permitted by the permit.

14.15.080 Insurance.

A. Concurrent with the issuance of the permit, the permittee shall procure and maintain, at its cost, during the term of the permit insurance as prescribed in regulations issued by the City Manager pursuant to Section 2.84.040.

B. Insurance required herein shall not be deemed to limit the permittee's liability under this permit.

C. Permittee shall keep the insurance in full force and effect during the term of any parklet permit issued pursuant to this Chapter. No permit granted pursuant to this Chapter shall be effective until the permittee has complied with all insurance requirements.

D. Any parklet permit so terminated may be reinstated only upon application therefor submitted and approved by the City and upon the payment of twenty dollars ($20.00) per day for every day on which no insurance was provided and also upon payment of all sums due and unpaid to the City under the provisions of this Chapter, as well as full
indemnification during the uninsured period.

14.15.090 Default.

Upon the termination of the parklet permit by reason of the failure of
the permittee to comply with the provisions of this Chapter, the City may notify
the permittee in writing of the default and specify the time within which the
default is to be remedied. If the permittee fails or refuses to remedy the
default within the period of time specified, the right of permittee to use the
public walkway or other right-of-way shall cease and the City shall have the
right to remove the public walkway or other right-of-way obstruction as
provided under this Chapter. The permittee shall reimburse the City for any
expense incurred by the City in removing the obstruction. Should the
permittee continue to use the public walkway or other right-of-way after the
permit has been terminated and should the City file suit to restrain the use of
the public walkway or other right-of-way by permittee, the permittee shall
reimburse the City for its reasonable costs and expenses in connection
therewith, including a reasonable attorney fee.

14.15.100 Revocation and nonrenewal.

A. The Director of Public Works or City Engineer may revoke,
refuse to issue or renew a parklet permit if such person has failed or
refused:

1. To pay any fees for permits, security deposits or
charges as established by the City Council;
2. To repair public improvements damaged as a result of
the parklet occupancy of the public walkway or other right-of-way;
3. To comply with the terms of this Chapter or of a permit
granted hereunder.

B. The Director of Public Works may also refuse to issue or
renew a permit for providing a parklet in an area where such occupancy will
be inconsistent with the public's use of the public walkway or other right-of-way, access needs or the use of any property located adjacent to the public walkway or other right-of-way.

14.15.110 Appeal - City Council.

Except for minor modifications to an existing permit, any other determination or modification to an existing permit made by the Director of Public Works or City Engineer may be appealed to the City Council within ten (10) calendar days from the date of such determination or modification in the manner provided in this Section.

A. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Director of Public Works.

B. If the appeal is made by a permittee involving such permittee's existing permit, such appeal shall be accompanied by an appeal deposit in an amount determined by the City Council by resolution. For appeals made by any person other than the permittee, there shall be no required appeal deposit.

C. The City Council shall conduct a hearing on the appeal or refer the matter to a Hearing Officer, pursuant to Chapter 2.93 of this Code, within sixty (60) business days from the date the completed request for appeal was received by the Director of Public Works, except where good cause exists to extend this period. The appellant shall be given at least ten (10) business days written notice of such hearing. The hearing and rules of evidence shall be conducted pursuant to Chapter 2.93 of this Code. The determination of the City Council on the appeal shall be final.
Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of December 18, 2018, by the following vote:


Noes: Councilmembers: None.

Absent: Councilmembers: Pearce, Richardson.

Approved: 12/19/18

(Date)

Mayor
STATE OF CALIFORNIA   ) ss
COUNTY OF LOS ANGELES  )
CITY OF LONG BEACH    )

Tamela Austin being duly sworn says: That I am employed in the Office of the City Clerk of the City of Long Beach; that on the 19th day of December 2018, I posted three true and correct copies of Ordinance No. ORD-18-0031 in three conspicuous places in the City of Long Beach, to wit: One of said copies in the entrance lobby of City Hall in front of the Information Desk; one of said copies in the Main Library; and one of said copies on the front counter of the Office of the City Clerk.

Subscribed and sworn to before me
This 19th day of December, 2018.

City Clerk