

ORDINANCE NO. 2021- 011

1
2 **AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA,**
3 **AMENDING SECTION 9.08.035, *USE OF SIDEWALKS FOR***
4 ***OUTDOOR DINING*, OF THE CULVER CITY MUNICIPAL CODE**
5 **TO ADD THE USE OF PARKLETS AND OTHER USES AND**
6 **MODIFY THE CURRENT OUTDOOR DINING AGREEMENT**
7 **PROCESS.**

8 **WHEREAS**, a Parklet is an open space typically comprised of one, two, or three
9 adjacent curbside parking spaces located directly in front of a restaurant, art gallery, retailer, or
10 other business and is used primarily for outdoor dining or to create a customer waiting area, as
11 a stage for acoustic musicians to play, landscaping or a small garden, to display public art, or
12 other type of open space for public use; and

13 **WHEREAS**, creative use of street right-of way, such as Parklets, has gained
14 popularity in other cities and in particular since the COVID-19 pandemic, although some Culver
15 City businesses expressed interest in such use even prior to the pandemic; and

16 **WHEREAS**, in response to the COVID-19 pandemic, and under the authority of
17 emergency public orders, a number of temporary Parklets were approved through issuance of
18 Temporary Use Permits (TUP) to increase outdoor dining and retail capacities, since indoor
19 operations were significantly curtailed or prohibited; and

20 **WHEREAS**, the City Council desires to amend Section 9.08.035 of the Culver
21 City Municipal Code to allow for the continued use of street right-of-way for Parklets; and

22 **WHEREAS**, City staff has also incorporated additional modifications and
23 clarifications to Section 9.08.035 with regard to the current sidewalk outdoor dining program.
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1 **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**
2 **HEREBY ORDAIN** as follows:

3 **SECTION 1.** Section 9.08.035 of the Culver City Municipal Code is hereby
4 amended to read as follows (additions indicated by underline text; deletions indicated by
5 ~~strikethrough text~~):

6 **§ 9.08.035 USE OF PUBLIC RIGHT-OF-WAY SIDEWALKS FOR OUTDOOR**
7 **DINING OR OTHER USES.**

8 A. *Purpose.* The purpose of this Subchapter is to authorize the administrative
9 ~~licensing permitting of~~ public Right-of-Way, including sidewalks and curbside
10 parking spaces, for outdoor dining, areas and other uses as set forth in the
11 *Outdoor Dining Standards and Procedures* or *Parklet Design Guidelines*, in
12 areas where the establishment of ~~outdoor dining~~ such uses will promote
commercial revitalization and business opportunities in a manner that is
consistent with the public health, safety and welfare ~~and safety~~.

13 B. *Definitions.* For the purposes of this Section, the following definitions shall
14 apply unless the context clearly indicates or requires a different meaning.

15 1. **Outdoor Dining Permit and License Agreement** shall mean the
16 permit issued by the City to a person or business authorizing the use
of the sidewalk for outdoor dining or other uses as set forth in the
Outdoor Dining Standards and Procedures.

17 2. **Outdoor Dining Standards and Procedures** shall mean standards
18 and procedures for the design and operation of the sidewalk to be
19 used for outdoor dining and other uses, which shall be established by
resolution of the City Council.

20 3. **Parklet Design Guidelines** shall mean standards and procedures for
21 the design and operation of curbside parking spaces to be used for
22 outdoor dining and other uses, which shall be established by
resolution of the City Council.

23 4. **Parklet Street Use Permit and License Agreement** shall mean the
24 permit issued by the City to a person or business authorizing the use
25 of curbside parking spaces for outdoor dining or other uses as set
forth in the *Parklet Design Guidelines*.

1 5. Permit shall mean, individually or collectively, a valid *Outdoor Dining*
2 *Permit and License Agreement* and/or a valid *Parklet Street Use*
3 *Permit and License Agreement*.

4 6. Permittee shall mean the holder of an *Outdoor Dining Permit and*
5 *License Agreement* or a *Parklet Street Use Permit and License*
6 *Agreement* issued by the City.

7 7. Public Right-of-Way includes, but is not limited to sidewalks and
8 curbside parking spaces(s).

9 BC. Applicability.

10 1. In order to use the *Public Right-of-Way sidewalk* for outdoor dining or
11 other uses as set forth in the *Outdoor Dining Standards and*
12 *Procedures* or *Parklet Design Guidelines*, a person or business must
13 obtain, as applicable, an *Outdoor Dining Permit and License*
14 *Agreement* or *Parklet Street Use Permit and License Agreement* as
15 provided in this Subchapter.

16 2. which Each Permit shall provide for, but not be limited to, the
17 indemnification of the City by the Permittee, and the maintenance of a
18 requirement to maintain liability and other insurance coverage, and a
19 refundable maintenance deposit for damage that may be caused to the
20 *Public Right-of-Way*.

21 ~~The City Council shall establish standards and procedures for design and~~
22 ~~operation of outdoor dining areas by adoption of a resolution.~~

23 GD. Public Works Director/City Engineer authority.

24 1. The *Public Works Director/City Engineer* is authorized to approve and
25 execute, on behalf of the City;

26 a. an *Outdoor Dining Permit and License Agreement*, subject to the
27 adopted *Outdoor Dining Standards and Procedures*; and

28 b. a *Parklet Street Use Permit and License Agreement*, subject to the
 adopted *Parklet Design Guidelines*.

 2. In addition to all other remedies provided by law or set forth in the
 Permit, ~~the~~ *Public Works Director/City Engineer* is authorized to
 suspend or revoke:

1 a. ~~the an~~ Outdoor Dining Permit and License Agreement for violation
2 of its terms and conditions or violation of the adopted Outdoor
3 Dining Standards and Procedures; and

4 b. a Parklet Street Use Permit and License Agreement for violation of
5 its terms and conditions or violation of the adopted Parklet Design
6 Guidelines.

7 3. ~~In addition to all other remedies provided by law or agreement, the City~~
8 ~~Engineer is authorized to revoke the Outdoor Dining License~~
9 ~~Agreement for violation of the adopted Outdoor Dining Standards and~~
10 ~~Procedures.~~

11 DE. Placement and removal of fixtures and equipment on sidewalk in the Public
12 Right-of-Way.

13 1. Notwithstanding § 9.08.010 of this Code, fixtures and equipment
14 approved by the Public Works Director/City Engineer pursuant to a
15 Permit an Outdoor Dining License Agreement may remain in and on
16 the Public Right-of-Way sidewalk during such time as a Permit an
17 Outdoor Dining License Agreement is in effect.

18 2. Upon revocation or termination of a Permit an Outdoor Dining License
19 Agreement, all fixtures and equipment shall immediately be removed
20 from the Public Right-of-Way sidewalk, and the Public Right-of-Way
21 shall be sidewalk restored returned to its original condition, at
22 Permittee's sole cost and expense.

23 3. After revocation or termination of Permit an Outdoor Dining License
24 Agreement, Permittee's failure to remove all fixtures and equipment or
25 to restore return the Public Right-of-Way sidewalk to its original
26 condition, or both, shall be deemed a nuisance affecting the public's
27 health, safety and welfare, and is prohibited. In such a case,
28 Permittee's maintenance deposit shall be forfeited.

EF. Use of Public Right-of-Way sidewalk for outdoor dining or other use is
prohibited. Notwithstanding any other provisions of this Code, it shall be
unlawful for any person or business to use the Public Right-of-Way sidewalk
for outdoor dining or other use without first obtaining a Permit valid Outdoor
Dining License Agreement.

G. Fees. The City Council, by resolution, may establish fees for the use of the
Public Right-of-Way for outdoor dining and other uses.

1 **SECTION 2. ENVIRONMENTAL DETERMINATION.** The City Council hereby
2 finds there are no potentially significant adverse impacts on the environment and the proposed
3 Ordinance has been determined to be Categorical Exempt per California Environmental
4 Quality Act (CEQA) Section 15301, Class 1 – Existing Facilities, because the proposed
5 Ordinance concerns the operation, repair, maintenance, permitting, leasing, licensing, or minor
6 alteration of existing public or private structures, facilities, mechanical equipment, or
7 topographical features, involving negligible or no expansion of existing or former use
8 [subsection (c) sets forth existing highways and streets, sidewalks, etc. as an example of such
9 a project]. The use of the Public Right-of-Way for outdoor dining and other uses within the
10 existing street and sidewalk involves negligible or no expansion of use, as it does not remove
11 or create automobile lanes.

12 **SECTION 3. EFFECTIVE DATE.** Pursuant to Section 619 of the City Charter,
13 this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to
14 Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the
15 adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in
16 the Culver City News and shall post this Ordinance or a summary thereof in at least three
17 places within the City.
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19 **SECTION 4. SEVERABILITY.** The City Council hereby declares that, if any
20 provision, section, subsection, paragraph, sentence, phrase or word of this Interim Ordinance
21 is rendered or declared invalid or unconstitutional by any final action in a court of competent
22 jurisdiction or by reason of any preemptive legislation, then the City Council would have
23 independently adopted the remaining provisions, sections, subsections, paragraphs,
24 sentences, phrases or words of this Ordinance and as such they shall remain in full force and
25 effect.
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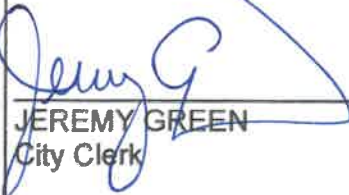
1 **SECTION 5. PUBLICATION.** Pursuant to Section 619 of the City Charter, this
2 Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections
3 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,
4 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver
5 City News and shall post this Ordinance or a summary thereof in at least three places within
6 the City.

7
8 APPROVED and ADOPTED this 23rd day of August 2021.


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11 _____
12 ALEX FISCH, Mayor
13 City of Culver City, California

13 ATTEST:

14 
15 _____
16 JEREMY GREEN
17 City Clerk

13 APPROVED AS TO FORM:

14 
15 _____
16 CAROL A. SCHWAB
17 for City Attorney

17 A21-00068

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF CULVER CITY)

Certification of Ordinance No. 2020-011

I, Jeremy Green, City Clerk of the City of Culver City, do hereby certify that the foregoing Ordinance was duly passed, approved, and adopted at a regular meeting of the City Council, which was held on the 23rd day of August 2021, at the Mike Balkman Council Chambers by the following vote:

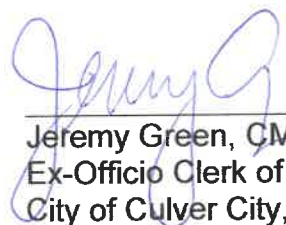
AYES: Eriksson, McMorris, Vera, Lee, Fisch

NOES: None

ABSENT: None

ABSTAIN: None

Certified on this 23rd day of August 2021, at the City of Culver City.



Jeremy Green, CMC, City Clerk
Ex-Officio Clerk of the City Council
City of Culver City, State of California