



CITY OF CULVER CITY
Engineering Division
Parklet
Street Use Permit and
License Agreement

9770 CULVER BOULEVARD; CULVER CITY, CA 90232
 310-253-5600 (O) | 310-253-5626 (F)

PERMIT NO.:

Type:

ADDRESS:

LOCATION:

APPLIED:

APPROVED:

ISSUED:

EXPIRED:

OWNER

APPLICANT

NAME: [Property Owner]

NAME: [Restaurant/Retailer]

ADDRESS:

ADDRESS:

PHONE:

PHONE:

PROJECT DESCRIPTION:

1. The City hereby this Parklet Street Use Permit and License Agreement for the use installation of a Parklet in the City's public right-of-way authorizes the installation of a Parklet in the public right-of-way, as set forth in the site plan attached hereto and incorporated herein by this reference.
2. All terms and conditions of the Parklet Design Guidelines adopted by City Council Ordinance No. 2021-011 on August 23, 2021 (Ordinance) and of the related fees adopted by City Council Resolution No.2021-R081 on August 23, 2021 (Resolution) authorizing the use of curbside parking space(s) for outdoor dining and other uses are incorporated in this Parklet Street Use Permit and License Agreement by reference as though fully set forth herein.
3. Subject to the terms and conditions of this Parklet Street Use Permit and License Agreement, the Ordinance and the Resolution, Permittee is authorized to use the public right-of-way for the sole purpose described in the Application.
4. City reserves the right to terminate this Parklet Street Use Permit and License Agreement in its sole and absolute discretion in accordance with the Conditions of Approval contained on the following pages and the provisions of the Ordinance.
5. Unless terminated earlier, this Parklet Street Use Permit and License Agreement shall remain effective until the Permittee or the City terminates it pursuant to the Termination section of the Terms and Conditions below.

TOTAL FEES:

\$0.00

TOTAL PAYMENTS:

\$0.00

In accordance with the Ordinance, City has authorized the use of public right-of-way to create a Parklet, subject to approval of the Public Works Director/City Engineer. By signing this Parklet Street Use Permit and License Agreement, Permittee agrees to use the public right-of-way solely for the purposes contained in the related Application, consistent with and in compliance with all terms and conditions set forth in this Parklet Street Use Permit and License Agreement:

Permittee Signature

Title

Date

Street Use Permit and License Agreement for Parklet
Public Works Department – Engineering Division
Terms and Conditions

Authority: This Permit is issued pursuant to Ordinance No. 2021-011 adopted by the City Council on August 23, 2021 (Ordinance) and Resolution No. 2021-R081 adopted by the City Council on August 23, 2021 (Resolution).

Standards: All use of the public right-of-way shall be conducted in accordance with this Permit, the Parklet Design Guidelines adopted by the Ordinance to the satisfaction of the Public Works Director/City Engineer.

Inspection: No more than two (2) business days after Parklet occupancy, the Permittee shall contact the Culver City Public Works/Engineering Permit Counter at (310) 253-5600 to arrange for inspection, final sign off and approval.

Permit on Site: A copy of this Parklet Street Use Permit and License Agreement shall be kept at the restaurant or retail location at all times and should be available to review upon request by any City official or enforcement officer.

The Premises: The public right-of-way area covered by this Parklet Street Use Permit and License Agreement (the "Premises") shall be solely limited to the area described in the approved site plan and application. Permittee shall not use the Premises for any other purpose other than those set forth in this Parklet Street Use Permit and License Agreement.

Compliance with Standards: Permittee shall at all times comply with the Parklet Design Guidelines adopted by the Ordinance and on file with City's Engineering Division, as well as with this Parklet Street Use Permit and License Agreement.

Pedestrian Clearance: A clear continuous pedestrian path not less than four (4) feet in width shall be required for pedestrian circulation outside of the approved Parklet area, provided that the Public Works Director/City Engineer may require more than four (4) feet to protect public safety. As used herein, pedestrian path means a continuous obstruction-free public right-of-way area, paved to City standards, between the outside boundary of the Parklet area and any obstruction, including but not limited to parking meters, street trees, landscaping, streetlights, bus benches, public art, and curb lines.

Level Floor: The platform constructed for the Parklet area shall be at the same level as the curb, and no alterations to the sidewalk or coverings on the sidewalk shall be permitted, unless required to provide ADA accessibility to the main entry of the restaurant or retail store, or otherwise is expressly approved by the Public Works Director/City Engineer.

Accessibility: The buildings adjacent to the Parklet area shall maintain building egress as defined by the Uniform Building Code and State of California Title 24 Disabled Access Standards.

Adjacent Location: At the discretion of the Public Works Director/City Engineer, and with the written consent of the property and business owners directly affected and in the immediate area, a Parklet area may be partially located in front of an adjacent property owner.

Final Configuration: The final location and configuration of the Parklet area, including any Pedestrian Clearance, shall be subject to approval by the Public Works Director/City Engineer, who shall consider public safety issues unique to the pedestrian and vehicular needs of the specific location.

Equipment:

- Permittee, at its sole cost and expense, may furnish physical barriers or other design elements so long as these are consistent with the Parklet Design Guidelines adopted by the Ordinance and provided they are approved by the City's Engineering Division.
- Permittee shall not modify the public right-of-way in any manner without prior written approval of the Public Works Director/City Engineer.
- All equipment and furnishings and the cost of their installation shall be provided at the sole expense of the Permittee. All such equipment and furnishings shall be deemed to be Permittee's personal property and shall be removed immediately by Permittee upon termination of this Parklet Street Use Permit and License Agreement. Concurrent with removal of Permittee's furniture, fixtures and equipment, Permittee, at its own expense, shall return the Premises to its original condition to the satisfaction of the Public Works Director/City Engineer.

Alcoholic Beverages: The sale of alcoholic beverages in an outdoor dining area is allowed in compliance with all applicable federal, state and City statutes, regulations, rules and ordinances including, but not limited to, any noise regulations contained in the Culver City Municipal Code and permits or licenses obtained from the State Alcohol Beverage Control Board, Los Angeles County Public Health Department, the City of Culver City i) Current Planning Division, ii) Building Safety Division, and iii) Business License Division.

Maintenance of Premises: Permittee at its own expense shall keep the Parklet in a clean and sanitary condition and upon expiration of this Parklet Street Use Permit and License Agreement, or upon earlier termination of this Permit, shall return the Premises to the City in as good a condition as existed at the time this Parklet Street Use Permit and License Agreement was issued.

Garbage and Rubbish: Permittee shall keep the Parklet clear of litter, food scraps and soiled dishes and utensils. No boxes, barrels, supplies or rubbish in any form shall be kept, piled or stored on the Premises or surrounding areas unless approved in advance by City.

Alterations and Repairs: Permittee accepts the Premises in the condition they are in at the time this Permit is issued, and City shall not be required to make any alterations, improvements or repairs therein or thereon. Permittee hereby waives all rights, if any it may have, to any express or implied warranties concerning the condition of Premises. Permittee shall not make any changes or remove any portion of the Premises without first obtaining the prior consent of the Public Works Director/City Engineer in writing. All such approved changes or removals shall be at the sole expense of Permittee.

Construction: Prior to commencement of any Parklet construction, Permittee shall submit a Traffic Control Plan for review and approval by the Mobility and Traffic Engineering Division of the Public Works Department.

Umbrellas and Signage: Permittee shall be allowed to use free-standing umbrellas provided they adhere to the Parklet Design Guidelines adopted by the Ordinance. No signs or advertising matter of any kind shall be displayed in the Parklet, except as approved by the Public Works Director/City Engineer and in accordance with the Parklet Design Guidelines contained in the Ordinance.

Conduct: Permittee shall at all times conduct and operate its business in a quiet and orderly manner, to the satisfaction of the City, so that such operation of the business does not create a public or private nuisance.

Ingress and Egress: City reserves the right to enter upon the Parklet covered by this Parklet Street Use Permit and License Agreement at any and all times during the term of this Permit.

Taxes:

- Permittee shall exonerate, indemnify, and hold harmless City from and against, and shall defend City from and against, and shall assume full responsibility for, payment of all wages or salaries and all federal, state, and local taxes or contributions imposed or required under the Unemployment Insurance, Social Security, Income Tax laws, Workers' Compensation laws, or other laws with respect to the Permittee's employees engaged in the performance of Permittee's obligations and operations hereunder.
- This Permit may create a possessory interest in public property which is subject to taxation. In the event such interest is created, Permittee shall pay any and all taxes levied on such interest.
- Permittee shall pay any and all taxes upon personal property and improvements belonging to said Permittee and upon its possessory interests, if any, and Permittee shall pay all sales and other taxes levied against the operation of said business.

Compliance with Laws and Ordinances: Permittee shall conduct its business in accordance with all laws, ordinances, rules and regulations including the terms and conditions of this Parklet Street Use Permit and License Agreement, the Parklet Design Guidelines contained in the Ordinance as amended.

Permits and Licenses: Permittee shall be required to obtain any and all permits or licenses that may be required from time to time in connection with the services to be performed under this Permit and the operation of an outdoor dining area providing food and beverages or other type of commercial business use that is permitted in the Ordinance.

Prohibition Against Transfer: Permittee shall not assign, sublease, hypothecate, or transfer this Parklet Street Use Permit and License Agreement or any interest therein directly or indirectly, by operation of laws or otherwise. Any attempt to do so shall be null and void, and any such assignee, sublessee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, sublease, hypothecation or transfer.

Hold Harmless:

- To the fullest extent permitted by law, Permittee shall indemnify, defend (at Permittee's sole expense, with legal counsel approved by City) and hold harmless the City of Culver City, members of its City Council, boards and commissions, officers, agents, and employees (hereinafter, "INDEMNITEES"), from and against all loss, damage, cost, expense, liability, claims, demands, suits, attorneys' fees and judgments arising from or in any manner connected to Permittee's possession, occupancy or use of the Premises and/or arising from or in any manner connected to the condition of the Premises and Permittee's business, activities, operations, services or work conducted in, on or about the Premises. This indemnification includes, but is not limited to, tort liability to a third person for bodily injury and property damage.
- Permittee further agrees to indemnify, defend and hold harmless INDEMNITEES from and against all loss, damage, costs, expense, liability, claims, demands, suits, attorneys' fees and judgments arising from or in any manner connected to the furnishing or supplying of any work, services, materials, equipment or supplies by any persons, firms, corporations or other entities in connection with this Permit or Permittee's operations.
- Permittee agrees that this obligation to indemnify, defend and hold harmless is intended to constitute a "Type 1" indemnity under California law, and extends to liability and/or claims arising from INDEMNITEES' active or passive negligence. Notwithstanding the foregoing, nothing herein shall be construed to require Permittee to indemnify INDEMNITEES from any claim arising from the sole negligence or willful misconduct of any INDEMNITEE.
- The duty to defend referenced herein is wholly independent from the duty to indemnify, arises upon written notice by City to PERMITTEE of a claim within the scope of this indemnification provision, and exists regardless of any determination of the ultimate liability of Permittee, City or any INDEMNITEE.
- Without limiting the generality of the foregoing, Permittee agrees that City shall not be liable for any injury to Permittee's business or any loss of income therefrom, or for damage to the goods, wares, merchandise, improvements or other property of Permittee, Permittee's officers, agents, employees, contractors, invitees or customers, or any other person in, on or about the Premises, or bodily injury or death of Permittee, its officers, agents, employees, contractors, invitees, and customers.
- For purposes of this Section, "Premises" shall include all public and private property used for outdoor dining or retail activities.

Independent Contractor Status: It is understood and agreed that Permittee, in the performance of this Parklet Street Use Permit and License Agreement, will be acting in a wholly independent capacity and not as agents, employees, partners, or joint venturers of the City. This Parklet Street Use Permit and License Agreement does not create a tenancy of any nature whatsoever between the City and Permittee.

Employees and Mechanics' Liens: Permittee shall keep said Premises and every estate, right, title and interest therein, or in or to any part thereof, at all times during the term of this Parklet Street Use Permit and License Agreement, free and clear of any mechanics' license, and other liens, and liens for labor, services, supplies, equipment, or material incurred by it, and Permittee will at all times fully pay and discharge and wholly protect, defend and hold harmless the City on account of said liens, or claims, or assertions, or filing thereof.

Recurring Fees: Permittee agrees to pay to City the license fee determined by the Resolution for the use of the Premises. Upon issuance of the Parklet Street Use Permit and License Agreement, Permittee shall pay the first year's license fee, prorated for the remaining months of the calendar year. Beginning on January 1st of the following year, Permittee shall remit the entire year's license fee either as a lump sum payment or in monthly payments. Monthly payments require a processing fee, as determined by resolution of the City Council.

Maintenance Deposit: Simultaneous to granting this Parklet Street Use Permit and License Agreement, Permittee shall remit a maintenance deposit in the amount of \$1,000. Said deposit shall be held by the City without liability for interest, as security for the faithful performance by Permittee of the terms, covenants and conditions of this Parklet Street Use Permit and License Agreement. During the term of this Parklet Street Use Permit and License Agreement, the City shall have the right, at its sole discretion, to appropriate and apply the entire maintenance deposit, or any portion thereof, to recover any expense the City may incur due to a breach of any provision of this Parklet Street Use Permit and License Agreement. Should the entire deposit or any portion thereof be appropriated and applied by the City hereunder, upon written demand of City, Permittee shall remit to City a sufficient amount to restore said maintenance deposit to the original sum deposited. Failure by Permittee to remit said cash within ten (10) days after receipt of such demand shall constitute a breach of this Parklet Street Use Permit and License Agreement. The rights and remedies granted to City pursuant to this paragraph are in addition to City's other remedies as provided in this Parklet Street Use Permit and License Agreement or by law. The deposit will be refunded upon termination of the Parklet Street Use Permit and License Agreement after an inspection of the condition of the public right-of-way by City's Public Works Department. However, if after thirty (30) days of the termination of this Parklet Street Use Permit and License Agreement, or thirty (30) days after Permittee has ceased use of the Premises for outdoor dining or other purposes, Permittee has not repaired the public right-of-way and removed the furniture/fixtures within said Premises, Permittee shall forfeit the maintenance deposit.

Costs of Litigation: If either the City or Permittee institutes any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provisions of this Parklet Street Use Permit and License Agreement, then the prevailing party shall be entitled to receive all costs and expenses and such amount as the court may adjudge to be reasonable attorneys' fees for the costs incurred by the prevailing party in such action or proceeding.

Governing Law: The validity of this Parklet Street Use Permit and License Agreement and any of its terms or provisions, as well as the rights and duties, shall be interpreted and construed pursuant to the laws of the State of California, and all disputes shall be resolved within Los Angeles County. The section headings of the Parklet Street Use Permit and License Agreement are for convenience and reference only, and shall in no way be deemed to define, limit, or add to the meaning of any provision of this Parklet Street Use Permit and License Agreement. If any clause, provision or section of the Parklet Street Use Permit and License Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof. The parties hereto agree and acknowledge that this Parklet Street Use Permit and License Agreement shall not be construed in favor of or against either party.

Enforcement: Notice of violation of the Parklet Design Guidelines or other code violation shall be made in writing to the Permittee by a Code Enforcement Officer, Public Works Inspector or Building Inspector of the City. A copy of the notice shall be filed with the Public Works Director/City Engineer. The Permittee shall immediately cure the violation upon receipt of notice. If the violation is not cured within ten (10) days after issuance of the notice to the Permittee, the Public Works Director/City Engineer may suspend or revoke this Parklet Street Use Permit and License Agreement.

Extent of Parklet Street Use Permit and License Agreement: This Parklet Street Use Permit and License Agreement, including any attachments and all Municipal Code Sections incorporated herein by reference, represents the entire and integrated agreement between City and Permittee and supersedes any and all prior negotiations, representations or agreements, either oral or written.

Authority to Sign: The individual executing this Parklet Street Use Permit and License Agreement on behalf of Permittee is authorized to execute this Parklet Street Use Permit and License Agreement on behalf of Permittee. Permittee has taken all actions required by law to have this individual execute this agreement on behalf of Permittee.

Utilities: Permittee shall pay all charges for fuel, gas, water, electricity, telephone services, and any other utilities necessary to carry on the operations of Permittee. Permittee may apply to the City's Building Safety Division for a permit to run electricity aerially to the Parklet area. Such permit would be for a lighting plan which abides by the requirements in the adopted Parklet Design Guidelines and pertinent City codes.

City Business License and Insurance: Permittee, and any of its contractors or subcontractors that permittee engages for any or all the related work to be completed by this permit shall maintain an active City business license, liability insurance that names the City as an additional insured, workers compensation insurance, and automobile liability coverage in the amounts indicated in the Insurance Section of this Parklet Street Use Permit and License Agreement.

Insurance: Without limiting its obligations pursuant to the Hold Harmless Section of this Parklet Street Use Permit and License Agreement, the Permittee shall procure and maintain, at Permittee's own cost and expense and for the duration of this Parklet Street Use Permit and License Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Permittee's operations within the City.

- A. Prior to commencing operations pursuant to this Parklet Street Use Permit and License Agreement, Permittee shall submit duly executed certificates of insurance for the following:
1. An occurrence-based Comprehensive General Liability ("CGL") policy, at least as broad as ISO Form CG 001, in the minimum amount of two million dollars (\$2,000,000) each occurrence, with not less than two million dollars (\$2,000,000) in annual aggregate coverage. With 30 days written notice, the City reserves the right however, to require Permittee to increase the coverage amount of their policy to four million (\$4,000,000) in the aggregate at any time in the future at its sole and absolute discretion. The CGL policy shall meet the following requirements:
 - a. The policy shall provide coverage for personal injury, bodily injury, advertising injury, death, accident and property damage, as those terms are understood in the context of a CGL policy;
 - b. The policy shall provide coverage for owned, hired and non-owned automobile liability;
 - c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law, Permittee's obligation, under Section 21 of this Parklet Street Use Permit and License Agreement, to indemnify the City of Culver City, members of its City Council, boards and commissions, as well as its officers, agents and employees;
 - d. The policy shall not exclude coverage for Completed Operations Hazards or Athletic or Sports Participants; and,
 - e. The City of Culver City, members of its City Council, boards and commissions, officers, agents and its employees will be named as additional insured in an endorsement to the policy, which shall be provided to the City and approved by the City's City Attorney prior to the issuance of any Parklet Street Use Permit and License Agreement.
 2. Business Automobile Liability Insurance in the minimum amount of one million dollars (\$1,000,000) each occurrence, with not less than two million dollars (\$2,000,000) in annual aggregate coverage.
 3. Workers' Compensation limits as required by the Labor Code of the State of California with Employers' Liability limits of one million dollars (\$1,000,000) per accident.
- B. The CITY may waive one or more of the coverages listed in Section 15.A., above. This waiver must be express and in writing, and will only be made upon a showing by the PERMITTEE that its operations in and with respect to the CITY are not such as to impose liability within the scope of that particular coverage.
- C. Additional insurance requirements:
1. All insurance listed in Section 15.A., above, shall be issued by companies licensed to do business in the State of California, with a claims paying ability rating of "BBB" or better by S&P (or the equivalent by any other rating agency) and a rating of A:VII or better in the current Best's Insurance Reports;
 2. PERMITTEE shall provide CITY with at least thirty (30) days' prior written notice of any modification, reduction or cancellation of any of the policies required in Section 15.A., above;
 3. Upon 30-days written notice to PERMITTEE, CITY, in its sole discretion, may increase the scope or dollar amount of coverage required under any of the policies described above, or may require different or additional coverages, including but not limited to increasing the CGL insurance annual aggregate.

Waivers: A waiver by the City of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of that term, covenant or condition, or of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

Holdover: Any holding over by Permittee after the expiration or any termination of this Parklet Street Use Permit and License Agreement or by any extension or renewal thereof shall not constitute a renewal or extension of the term hereof.

Termination: Either party may terminate this Permit with 30 days written notice. Any violation of the condition of this Permit, including the Parklet Design Guidelines contained in the Ordinance, may result in the termination of this Permit. In the event it is determined that there is a hazard to public health or safety, the Permit may be immediately terminated, without notice, at the sole discretion of the Public Works Director/City Engineer.

Permit Duration: Unless earlier terminated as set forth above, this Parklet Street Use Permit and License Agreement shall remain in full force and effect provided Permittee continues to pay City any and all applicable fees associated with their use of the Parklet.