

1 [Public Works, Administrative Codes - Curbside Shared Spaces Permit and License Fees]

2
3 **Ordinance amending the Public Works and Administrative Code to eliminate permit**
4 **fees for a Curbside Shared Spaces permit approved before June 30, 2025; amending**
5 **the Administrative Code to and increase the gross receipts threshold from \$2,000,000**
6 **to \$2,500,000 for reductions to annual Curbside Shared Spaces permit and license**
7 **fees; and affirming the Planning Department’s determination under the California**
8 **Environmental Quality Act; ~~and making findings of consistency with the General Plan~~**
9 **~~and the eight priority policies of Planning Code, Section 101.1.~~**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. CEQA and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 230312 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) ~~On _____, the Planning Department determined that the actions~~
25 ~~contemplated in this ordinance are consistent, on balance, with the City’s General Plan and~~
~~eight priority policies of Planning Code Section 101.1. The Board adopts this determination~~

1 as its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in
2 File No. _____, and is incorporated herein by reference.

3
4 Section 2. Background and Findings.

5 (a) Due to the density of San Francisco, many restaurants and other businesses do
6 not have significant amounts of outdoor space as part of their premises. Thus, for many San
7 Francisco restaurants and businesses to receive the economic boost that often accompanies
8 outdoor operations, it is necessary to operate outdoors beyond their premises.

9 (b) In response to the COVID-19 pandemic, on June 9, 2020, the Mayor issued the
10 18th Supplement to the Proclamation declaring a local emergency to create a temporary
11 program (known as “Shared Spaces”) for retail businesses and restaurants to occupy the
12 public sidewalk and parking lane fronting their premises, subject to certain conditions. The
13 Mayor issued several subsequent Supplements to the Proclamation in order to expand
14 opportunities for businesses to conduct operations in additional types of outdoor places.

15 (c) In addition to its positive economic impact on small businesses, their owners,
16 employees, and owner and employee families, the Shared Spaces Program delivers multiple
17 other benefits to neighborhoods and to the City, including general civic, social, and
18 psychological wellbeing, and increased pedestrian access in areas typically used for vehicular
19 traffic.

20 (d) On July 28, 2021 the Board of Supervisors enacted Ordinance No. 99-21, to create
21 a permanent Shared Spaces Program. The legislation streamlined the interagency review
22 process to allow retail, cultural events, and general recreation to occur in “Curbside Shared
23 Spaces” or parklets, Sidewalk Shared Spaces, “Roadway Shared Spaces” or street closures,
24 City-owned lots under the administration of the Real Estate Division, and some privately
25 owned open spaces. Curbside Shared Spaces are the focus of this ordinance.

1 (e) Curbside Shared Spaces includes fixed commercial parklets, movable commercial
2 parklets, and public parklets. For a Curbside Shared Spaces permit, the San Francisco
3 Municipal Transportation Agency is responsible for reviewing and approving the closure of the
4 parking space to vehicular traffic, and the Department of Public Works is responsible for
5 issuing the permit to occupy the right of way, subject to payment of an initial permit fee and an
6 annual licensing fee. Permit and license fees are due and payable ~~on~~ beginning after March
7 31, 2023. Businesses or individuals with annual gross receipts within the City that do not
8 exceed \$2,000,000 are eligible for a 50% reduction to the annual license fee.

9 (f) Individuals or businesses may convert their Shared Spaces permit issued pursuant
10 to the 18th Supplement or related supplements to the Mayor's proclamation declaring the
11 existence of a local emergency to a permit under the permanent Shared Spaces Program
12 created by Ordinance No. 99-21. Currently, under that legislation, the initial annual license
13 fees and the first subsequent annual license fees are waived for such permittees; however,
14 permit fees are not waived, and are due and payable on March 31, 2023.

15 (g) The Board of Supervisors finds that Curbside Shared Spaces permit costs
16 discourage businesses from keeping their existing parklets or applying to construct new
17 parklets. These parklets not only help the business expand but also provide additional
18 employment opportunities for service workers. Curbside Shared Spaces help improve the
19 vibrancy of commercial corridors, and the City wants to encourage small businesses to keep
20 their parklets or apply to create new parklets. ~~Eliminating permit fees~~ Temporarily waiving
21 permit fees will provide businesses with more resources to invest in complying with Curbside
22 Shared Spaces program requirements.

23 (h) This ordinance would eliminate permit fees for all Curbside Shared Spaces
24 permittees, including existing permittees under the 18th Supplement and later supplements, in
25 addition to all future permittees. This temporary waiver would expire on June 30, 2025.

1 Further, this ordinance would expand the existing 50% reduction of the permit and annual
2 license fee to businesses or individuals with gross receipts that do not exceed \$2,500,000, in
3 contrast to the current \$2,000,000 limit. But this ordinance does not alter fees for other types
4 of Shared Spaces, including but not limited to fees payable under the Sidewalk Shared
5 Spaces permit.

6
7 Section 3. Article 2.1 of the Public Works Code is hereby amended by revising Section
8 2.1.1, to read as follows:

9
10 **SEC. 2.1.1. FEES.**

11 Notwithstanding the permit fee provisions listed elsewhere in this Code, the permit fee
12 and assessment schedule for the permit categories and uses specifically listed below shall be:

13 * * * *

14 (s) Curbside Parklet Fee. The ~~permit and~~ permit and license fees for the types of
15 Curbside Shared Space Permits issued pursuant to Administrative Code Chapter 94A and
16 Public Works Code Section 793 et seq. are as follows, with one half of the fees allocated to
17 the San Francisco Municipal Transportation Authority, and one half of the fees allocated to
18 Public Works. The ~~permit and~~ permit and license fees shall be due and payable as provided in
19 Chapter 94A of the Administrative Code. ~~There shall be no permit fees for Curbside Shared~~
20 ~~Spaces permits.~~

21 (i) Public Parklet fees: ~~annual license fee of \$100 per parking space.~~

22 ~~(A) Permit fee of \$1,000 for the first parking space and \$250 for each additional~~
23 ~~parking space;~~

24 ~~(B) Annual license fee of \$100 per parking space.~~

1 (A) Permit fee of \$1,000 for the first parking space and \$250 for each additional
2 parking space;

3 (B) Annual license fee of \$100 per parking space.

4 (ii) Movable Commercial Parklet fees: ~~annual license fee of \$1,500 per parking~~
5 ~~space.~~

6 ~~(A) Permit fee of \$2,000 for the first parking space and \$1,000 for each additional~~
7 ~~parking space;~~

8 ~~(B) Annual license fee of \$1,500 per parking space.~~

9 (A) Permit fee of \$2,000 for the first parking space and \$1,000 for each
10 additional parking space;

11 (B) Annual license fee of \$1,500 per parking space.

12 (iii) Fixed Commercial Parklet fees: ~~annual license fee of \$2,000 per parking~~
13 ~~space.~~

14 ~~(A) Permit fee of \$3,000 for the first parking space and \$1,500 for each additional~~
15 ~~parking space;~~

16 ~~(B) Annual license fee of \$2,000 per parking space.~~

17 (A) Permit fee of \$3,000 for the first parking space and \$1,500 for each
18 additional parking space;

19 (B) Annual license fee of \$2,000 per parking space.

20 (t) Temporary Curbside Parklet Fee Waiver. For any Curbside Shared Space Permit
21 approved before June 30, 2025, including any Parklet Permittee or pandemic Shared Spaces
22 Permittee that seeks to convert to a Curbside Shared Space Permit, the following fees shall
23 apply:

24 (i) Public Parklet fees:

25 (A) No permit fee;

1 (B) Annual license fee of \$100 per parking space.

2 (ii) Movable Commercial Parklet fees:

3 (A) No permit fee;

4 (B) Annual license fee of \$1,500 per parking space.

5 (iii) Fixed Commercial Parklet fees:

6 (A) No permit fee;

7 (B) Annual license fee of \$2,000 per parking space.

8 (iv) Sunset. Subsection (t) of Section 2.1.1 shall expire by operation of law on
9 June 30, 2025, unless the duration of the subsection has been extended by ordinance
10 effective on or before that date. Upon expiration, the City Attorney shall cause subsection (t)
11 to be removed from the Public Works Code.

12
13 Section 4. Chapter 94A of the Administrative Code is hereby amended by revising
14 Sections 94A.10 and 94A.12, to read as follows:

15
16 **SEC. 94A.10. FEES.**

17 (a) **Shared Space Permit and License Fees.** Pursuant to Section 94A.5(c)(1), a
18 Shared Space Permit substitutes for a permit that would otherwise be required by the
19 Municipal Code. Notwithstanding any other provision of the Municipal Code including Public
20 Works Code Section 2.1.3, the permit and license fees may be adjusted each year, without
21 further action by the Board of Supervisors, only to reflect changes in the relevant Consumer
22 Price Index, as determined by the Controller.

23 (1) Public Works shall assess Sidewalk Shared Spaces permit and license fees
24 using the fees authorized in Article 2.1 of the Public Works Code. The fees to be imposed
25

1 shall be based on the proposed scope of the Sidewalk Shared Spaces Permit (e.g. sidewalk
2 tables and chairs, or other appropriate permit types).

3 (2) The ~~permit and~~ permit and license fee amounts for Curbside Shared Space
4 Permits are set forth in Public Works Code Section 2.1.1(s) and shall be collected by the Tax
5 Collector and due and payable as follows:

6 (A) The ~~permit license~~ permit fees for Curbside Shared Spaces shall be due
7 and payable ~~upon the Tax Collector's issuance of the bill following permit approval, and the annual~~
8 ~~license fees shall be due and payable~~ upon the Tax Collector's issuance of the bill following permit
9 approval, and the annual license fees shall be due and payable annually on March 31, in
10 accordance with Article 2, Section 76.1 of the Business and Tax Regulations Code, with the
11 initial license fee, prorated as described in Section 76.1(a), being due and payable upon the
12 Tax Collector's issuance of the bill for that fee following permit approval.

13 (B) The ~~permit and~~ permit and license fees for ~~a~~ Curbside Shared Spaces shall
14 be reduced by 50% for a person or combined group within the meaning of Article 12-A-1 of
15 the Business and Tax Regulations Code if the person or combined group's gross receipts
16 within the City as determined under Article 12-A-1 reflected on the person or combined
17 group's most recently filed gross receipts tax return, business registration renewal, or initial
18 business registration application did not exceed ~~\$2,000,000~~ \$2,500,000, adjusted annually in
19 accordance with the increase in the Consumer Price Index: All Urban Consumers for the San
20 Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of
21 Labor Statistics, or any successor to that index, as of December 31 of the preceding year,
22 beginning with December 31, ~~2021-2023~~. If no San Francisco gross receipts were reflected on
23 a person or combined group's gross receipts tax return, business registration renewal, or
24 initial business registration application, such person or combined group will be treated as
25 having \$0 San Francisco gross receipts for purposes of this subsection (a)(2)(B).

1 (C) *If a Permittee does not pay the permit fee within 30 days after it becomes due and*
2 *payable, the Tax Collector shall add 10% to the amount of the permit fee as a penalty for nonpayment.*
3 *If the permittee does not pay the fee within 60 days after it becomes due and payable, the Tax Collector*
4 *shall add 15% to the amount of the permit fee as a penalty for nonpayment. If the permittee does not*
5 *pay the fee within 90 days after it becomes due and payable, the Tax Collector shall add 25% to the*
6 *amount of the permit fee as a penalty for nonpayment. If the permittee has failed for a period of six*
7 *months or more to pay a permit fee, the Tax Collector shall impose an additional penalty of 25% on the*
8 *amount of the delinquent permit fee, and shall refer the delinquent permittee to the Department of*
9 *Public Works for administrative action on the permit. These penalties are mandatory and City officers*
10 *and employees may not waive them in whole or in part.* If a Permittee does not pay the permit fee
11 within 30 days after it becomes due and payable, the Tax Collector shall add 10% to the
12 amount of the permit fee as a penalty for nonpayment. If the permittee does not pay the fee
13 within 60 days after it becomes due and payable, the Tax Collector shall add 15% to the
14 amount of the permit fee as a penalty for nonpayment. If the permittee does not pay the fee
15 within 90 days after it becomes due and payable, the Tax Collector shall add 25% to the
16 amount of the permit fee as a penalty for nonpayment. If the permittee has failed for a period
17 of six months or more to pay a permit fee, the Tax Collector shall impose an additional penalty
18 of 25% on the amount of the delinquent permit fee, and shall refer the delinquent permittee to
19 the Department of Public Works for administrative action on the permit. These penalties are
20 mandatory and City officers and employees may not waive them in whole or in part. Licensees
21 shall be subject to penalties for delinquent payment of license fees as provided in Article 2,
22 Section 76.1 of the Business and Tax Regulations Code.

23 (3) The fees for Roadway Shared Space Permits shall be authorized by the
24 Transportation Code.

25 * * * *

1
2 **SEC. 94A.12. TRANSITION OF EXISTING SHARED SPACES AND PARKLETS.**

3 * * * *

4 (c) **Temporary Fee Waiver and Deferral for Parklet and Pandemic Shared Space**
5 **Permit Conversion.** Notwithstanding the provisions regarding ~~permit and~~ permit and license
6 fee payment set forth in Section 94A.10(a)(2)(adminiA), for any Parklet Permittee or pandemic
7 Shared Spaces Permittee that seeks to convert to a Curbside Shared Space Permit: (i) ~~the~~
8 ~~permit fees shall be due and payable on March 31, 2023,~~ (ii) the permit fees shall be due and
9 payable on March 31, 2023, (ii) the initial annual license fees and the first subsequent annual
10 license fees shall be waived, and ~~(iii)~~ ~~(ii)~~ (iii) the annual license fees thereafter shall be due
11 and payable annually on March 31, in accordance with Article 2, Section 76.1 of the Business
12 and Tax Regulations Code, beginning with the second March 31 following the date the
13 Curbside Shared Space Permit is approved. Establishments that are considered a Formula
14 Retail Use, as defined in Section 102 of the Planning Code, shall be ineligible for the
15 temporary fee waiver and deferral set forth in this subsection (c). A Parklet Permittee or
16 pandemic Shared Spaces Permittee that seeks to convert to a Curbside Shared Space Permit
17 shall be eligible for the permit fee waivers set forth in Public Works Code Section 2.1.1(t).

18 * * * *

19
20 Section 56. Effective Date; Retroactivity.

21 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
22 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
23 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
24 Mayor's veto of the ordinance.

1 (b) The Board of Supervisors intends that this ordinance be operative to eliminate the
2 permit fees for Curbside Shared Space Permits that are due and payable on March 31, 2023
3 and thereafter. To effectuate this intent, the operative provisions of this ordinance shall be
4 retroactive to March 31, 2023 should the effective date of the ordinance occur after March 31,
5 2023. If any fees that are waived by this ordinance have been collected prior to its effective
6 date, said fees shall be promptly refunded ~~on or after the effective date of the ordinance,~~
7 without interest, upon request of the payor of the fee. Any refund request under this
8 ordinance must be filed in writing with the Tax Collector within one year of payment of the fee.
9

10 Section 67. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the “Note” that appears under
15 the official title of the ordinance.

16
17 APPROVED AS TO FORM:
18 DAVID CHIU, City Attorney

19 By: /s/ Giulia Gualco-Nelson
20 GIULIA GUALCO-NELSON
21 Deputy City Attorney

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