

1 [Administrative Code - Shared Space at 1429 Mendell Street Parklet]

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3 **Ordinance waiving specified requirements in the Administrative Code to allow a food**
4 **service shared space located at 1429 Mendell Street to be considered as a curbside**
5 **shared space, subject to certain requirements; and affirming the Planning**
6 **Department's determination under the California Environmental Quality Act.**

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

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

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14 Section 1. Environmental Findings. The Planning Department has determined that the
15 actions contemplated in this ordinance comply with the California Environmental Quality Act
16 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
17 the Clerk of the Board of Supervisors in File No. 231192 and is incorporated herein by
18 reference. The Board affirms this determination.

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20 Section 2. Background and General Findings.

21 (a) The food service seating area that is the subject of this ordinance is located at
22 1429 Mendell Street (Assessor Parcel No. 5323/015) on the eastern side of the street,
23 between Oakdale and Palou Avenues ("Mendell Parklet"). During the declaration of COVID
24 emergency, the restaurant at this location installed a food service seating area on the public
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1 right-of-way as a shared space in accordance with Administrative Code Sections 94A et seq.
2 and Public Works Code Sections 793 et seq.

3 (b) The Mendell Parklet is located on the vehicular portion of Mendell Street, which
4 has been closed to vehicular traffic. Though this block of Mendell Street resembles a public
5 plaza in use and appearance, it has not been legally designated as such. Because the
6 Mendell Parklet is not located in the curbside lane, it does not qualify as a Curbside Shared
7 Space under Administrative Code Section 94A.2 and Public Works Code Sections 793 et seq,
8 which defines a Curbside Shared Space as “a Shared Space occurring in a portion of the
9 curbside lane of a City street.” Further, because the Mendell Parklet is not located on a
10 sidewalk, it does not qualify as a Sidewalk Shared Space, defined and addressed in
11 Administrative Code Section 94A.2 and Public Works Code Sections 176 et seq. Moreover,
12 any tables and chairs installed pursuant to a Sidewalk Shared Spaces permit are temporary
13 and removed each day after the close of business, and as such, may not be affixed to the
14 sidewalk. The tables and chairs for the Mendell Parklet, by contrast, remain in the public
15 right-of-way after the close of business. Therefore, the Mendell Parklet does not qualify for a
16 Fixed Commercial Parklets/Curbside Shared Space permit or a Sidewalk Shared Space
17 permit. Consequently, the Mendell Parklet does not fall within the definitions or permitting
18 scheme of any of the existing categories of Shared Spaces.

19 (c) In recognition of the economic, health, safety, and recreational contributions that
20 Shared Spaces have provided to commercial enterprises, neighborhood businesses, and City
21 residents and visitors, the Board of Supervisors intends to allow the Mendell Parklet to
22 continue operating as a viable extension of the associated restaurant in the same manner as
23 similarly situated Curbside Shared Spaces. To accomplish this objective, this ordinance
24 waives certain provisions of the Administrative Code governing Shared Spaces that otherwise
25 would be applicable to the Mendell Parklet, conditioned on the Mendell Parklet undergoing

1 physical modifications to make the parklet compliant with applicable laws and similarly
2 situated Shared Spaces.

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4 Section 3. Waiver of Certain Administrative Code Provisions.

5 (a) The provisions of Administrative Code Sections 94A.2, 94A.4, and 94A.5 are
6 hereby waived to the extent necessary to allow the affected City departments to consider the
7 Mendell Parklet as a Curbside Shared Space that is a Fixed Commercial Parklet. Any
8 provisions of those Administrative Code Sections that need not be waived for that purpose are
9 not waived.

10 (b) In implementing these waivers, the Public Works Director shall process permits for
11 the Mendell Parklet in accordance with the other requirements of Administrative Code
12 Sections 94A et seq., Public Works Code Sections 793 et seq., and Public Works regulations
13 for Curbside Shared Spaces that are Fixed Commercial Parklets and shall ensure that the
14 Mendell Parklet is compliant with these laws and regulations. To the extent that
15 implementation of these waivers presents a conflict with Public Works Code Sections 176 et
16 seq. or Sections 793 et seq., the provisions of this ordinance shall prevail, and the Public
17 Works Director is authorized to exercise discretion to amend any regulations in conflict with
18 this ordinance; provided, however, that the Mendell Parklet shall comply with all regulations
19 regarding public health and safety design features for Shared Spaces and that the Mendell
20 Parklet shall undertake physical modifications to make the parklet compliant with applicable
21 laws and similarly situated Shared Spaces.

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23 Section 4. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Giulia Gualco-Nelson
8 GIULIA GUALCO-NELSON
9 Deputy City Attorney

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