

REVISED LEGISLATIVE DIGEST

(7/13/2021, Amended in Board)

[Administrative, Public Works, Transportation Codes - Shared Spaces]

Ordinance amending the Administrative Code to rename and modify the Places for People program as the Shared Spaces Program, and to clarify the roles and responsibilities of various departments regarding activation and use of City property and the public right-of-way, streamline the application process, specify minimum programmatic requirements such as public access, setting permit and license fees, and provide for the conversion of existing Parklet and Shared Spaces permittees to the new program requirements; amending the Public Works Code to create a Curbside Shared Spaces permit fee, provide for public notice and comment on permit applications, provide for hearings for occupancy of longer-term street closures, and supplement enforcement actions by Public Works; and amending the Transportation Code to authorize the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) to issue permits for the temporary occupancy of the Traffic Lane for purposes of issuing permits for Roadway Shared Spaces as part of the Shared Spaces Program, subject to delegation of authority by the Municipal Transportation Agency Board of Directors to temporarily close the Traffic Lane, and adding the Planning Department as a member of ISCOTT; and also amending the Transportation Code to prohibit parking in a zone on any street, alley, or portion of a street or alley, that is subject to a posted parking prohibition except for the purpose of loading or unloading passengers or freight; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and affirming the Planning Department’s determination under the California Environmental Quality Act

Existing Law

Administrative Code Chapter 94A establishes the Places for People Program and provides a process by which the pertinent City departments (defined as “Core City Agencies”) can coordinate their review and approval of a concept proposal by a prospective Steward to create, activate, and manage a space where the public can gather on a City-owned lot, sidewalk, curbside, or roadway and participate in specified activities (a “People Place”).

The Core City Agencies participating in the Program’s coordinated review are: the Planning Department, Department of Public Works (“Public Works”), Municipal Transportation Agency (“MTA”), Department of Real Estate, and Entertainment Commission. Planning has a general coordination role; the Director of Real Estate administers People Places solely on a City-owned lot; the Entertainment Commission participates in the review and approval of proposed People Places within the Police Code’s definition of a “Limited Live Performance Locale”; and Public Works and MTA participate in the review and approval of People Places within the public right-of-way that are within these agencies’ respective jurisdiction. Each Agency retains its full authority under the Charter and applicable Codes to authorize the use, impose

conditions on the permit, and enforce the Agency's requirements. The Core City Agencies may, in their discretion, withdraw their approval of, modify or revoke a People Place Permit at any time.

Sections 793 through 793.8 of the Public Works Code to provide a process for Public Works' approval of a People Place on a portion of the public right-of-way within Public Works' jurisdiction. The requirements in Police Code Section 1060 et seq., which are amended to include a People Place under the Places for People Program, govern the Entertainment Commission's review of a People Place meeting the description of a Limited Live Performance Locale.

For a People Place in the public right-of-way, the permit fee is one-half the fee that the Public Works Code authorizes Public Works to charge for a permit granting permission to occupy a portion of the public right-of-way that is equivalent in scope to the People Place Permit. City departments and agencies are also authorized to charge one-half the authorized fee for additional permits that may be required or for services performed in implementing the People Place Proposal.

Amendments to Current Law

Interagency Coordination:

The legislation renames and modifies the Places for People program as the Shared Spaces program by streamlining the interagency review process for to allow retail, cultural events, and general recreation to occur in "Curbside Shared Spaces" or parklets, "Roadway Shared Spaces" or street closures, city-owned lots under the administration of the Real Estate Division, and some privately owned open spaces.

The legislation further clarifies the interagency working process for the following types of permits: sidewalk, "curbside" or parklet, and "roadway" or street closures. The responsibilities for these three types of permits are as follows:

- Sidewalk Shared Spaces. Public Works is responsible for issuing permits Sidewalk Shared Spaces. Sidewalk Shared Spaces does not include a permit to place tables and chairs in the right of way pursuant to Article 5.2 of the Public Works Code.
- Curbside Shared Spaces. The legislation specifies three types of Curbside Shared Spaces: fixed commercial parklets, movable commercial parklets, and public parklets. MTA is responsible for reviewing and approving the closure of the parking space to vehicular traffic, and Public Works is responsible for issuing the permit to occupy the right of way.
- Roadway Shared Spaces. MTA is responsible for evaluating the request to close streets to vehicular traffic. For Temporary Closures (as defined in the Transportation Code in companion legislation at the SFMTA Board of Directors), ISCOTT will review the closure and issue any permit. For Longer-Term closures (as defined in the companion amendments to the Transportation Code), the SFMTA Board of Directors must close the street, and MTA staff will issue any permits.

At the June 7, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted amendments replacing Planning with Public Works as the central public facing point of contact for permits. At the July 13, 2021 meeting of the Board of Supervisors, the Board adopted amendments reversing the amendments adopted by the Land Use and Transportation Committee on June 7, 2021, and re-inserted Planning as the central point of contact for permits.

Converting existing Shared Spaces Permits

The legislation provides a process under which individuals or businesses may convert their Shared Spaces permit issued pursuant to the 18th supplement or related supplement to the Mayor's proclamation declaring the existence of a local emergency to a permit under the proposed legislation.

Fees:

Amendments to the Administrative Code would provide for the collection of permit and license fees pursuant to Business and Tax Regulations Code section 76.1. Existing Parklet Permits and Shared Spaces Permits that convert to Curbside Shared Space Permits under the proposed ordinance would be eligible for a waiver and deferral of certain fees. Small businesses would also be eligible for reduced permit and license fees. The specific fee amounts are set forth either in the Public Works Code or the companion amendments to the Transportation Code. Amendments to the Administrative Code would limit increases to any Shared Spaces fee to CPI index increases, and any fees collected for curbside permits must be split evenly between Public Works and MTA. The fee provisions were amended as part of the substitute legislation introduced on May 4, 2021, and again on June 7, 2021.

At the July 12, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted amendments that except Formula Retail Establishments, as defined by Section 102 of the Planning Code, from the fee waivers and deferrals based on the finding that while small businesses with few locations were especially impacted by the economic downturn, Formula Retail businesses, in general, were better positioned to navigate the economic downturn due to the fact that Formula Retail establishments have multiple locations.

Accessibility

At the June 7, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted amendments setting a minimum path of travel for Sidewalk Shared Spaces. The amendments codify the department's guidelines which require a minimum 6 foot path of travel to be maintained at all times.

At the July 12, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted an obligation to provide a minimum 8 feet path of travel, unless Public Works determines that 8 feet of unimpeded access is physically infeasible, or the permittee had a valid Tables and Chairs permit pursuant to Article 5.2 of the Public Works Code as of the effective date of this ordinance. In no event, however, is the minimum path of travel permitted

to be reduced below 6 feet. The Committee also adopted amendments clarifying that fixed structures shall not be placed in the sidewalk.

Public Access

At the June 7, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted two sets of amendments related to public access. First, permittees are no longer allowed to close Curbside Shared Space to the public overnight, and second, Curbside Shared Space permittees must provide one public bench per 15 linear feet of Curbside Shared Space. At the July 12, 2021 meeting of the Land Use and Transportation Committee, the Committee reduced this obligation from one public bench per 15 linear feet to 20 linear feet. At the July 13, 2021 meeting of the Board of Supervisors, the Board adopted an amendment allowing permittees to secure the parklets from midnight to 7 a.m.

Background Information

On February 25, 2020, the Mayor issued a Proclamation (the “Proclamation”) declaring a local emergency to exist in connection with the imminent spread within the City of a novel (new) coronavirus (“COVID-19”). On March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions taken by the Mayor to meet the emergency. The COVID-19 pandemic impacted and transformed the way businesses operate. One of the largest shifts was the transition to moving activities outdoors.

Due to the density of San Francisco, many restaurants and businesses do not have significant amounts of outdoor space as part of their premises. Thus, for many San Francisco restaurants and businesses to receive the economic boost that often accompanies outdoor operations, it is necessary to operate outdoors beyond their premises. On June 9, 2020, the Mayor issued the 18th Supplement to the Proclamation declaring a local emergency to create a temporary program (known as “Shared Spaces”) for retail businesses and restaurants to occupy the public sidewalk and parking lane fronting their premises for retail businesses to display and sell goods and merchandise and offer services and for restaurants to place tables and chairs to offer outdoor dining, subject to certain conditions. The 18th Supplement found that authorizing the use of more outdoor spaces like sidewalks, parking lanes, and other City property would allow restaurants and retail to spread out their wares and services to safely comply with the physical distancing requirements in the Health Officer’s orders and directives. The 18th Supplement also found that temporarily allowing restaurants and retail businesses to use more outdoor spaces and take greater advantage of the reopening authorizations while waiving City fees associated with such uses would ease the economic burden on these businesses and allow some employees to return to work, thus promoting the housing and health stability of these workers.

On May 4, 2021, the sponsor introduced substitute legislation making several changes. The primary changes were to align the fee structure with Business and Tax Regulations Code section 76.1. The proposed changes would also exempt existing Parklet permittees from the

notice requirements of Section 793.2(b) due to the extensive notice and public outreach process included in the existing Parklet approval process.

On June 7, 2012, the Land Use and Transportation Committee adopted a number of additional amendments. The Committee adopted amendments proposed by Supervisor Peskin focusing on enhancements to safety and accessibility for seniors and people with disabilities; further streamlining administrative review and coordination; requiring additional public access for commercial parklets; integration of the City's Vision Zero, Transit First, and Better Streets policies; and allowing businesses to defer fees for an additional year. Supervisor Peskin issued a public memorandum on the legislation the same day. At the same hearing, the Committee adopted amendments proposed by Supervisor Melgar requiring a minimum path of travel for Sidewalk Shared Spaces, and increased inspection and enforcement by City agencies to ensure compliance with the terms of the program.

In addition to the amendments noted above, at the July 12, 2021 meeting of the Land Use and Transportation Committee, the Committee adopted amendments removing the obligation to develop and implement a "Shared Spaces Agreement," and requiring outreach in multiple languages.

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