

BOARD of SUPERVISORS



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MEMORANDUM

TO: Carla Short, Interim Director, Public Works
Andrico Penick, Director, Real Estate Division
Jeffrey Tumlin, Executive Director, Municipal Transportation Agency
José Cisneros, City Treasurer, Office of the Treasurer and Tax Collector

FROM: Brent Jalipa, Assistant Clerk, Budget and Finance Committee

DATE: March 24, 2023

SUBJECT: PROPOSED ORDINANCE INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed Ordinance, introduced by Supervisor Ahsha Safai:

File No. 230312

Ordinance amending the Public Works and Administrative Code to eliminate permit fees for Curbside Shared Spaces and increase the gross receipts threshold from \$2,000,000 to \$2,500,000 for reductions to annual Curbside Shared Spaces license fees; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: David Steinberg, Public Works
Ian Schneider, Public Works
Lena Liu, Public Works
Kate Breen, Municipal Transportation Agency
Janet Martinsen, Municipal Transportation Agency
Joel Ramos, Municipal Transportation Agency
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

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 Curbside Shared Spaces and increase the gross receipts threshold from**
5 **\$2,000,000 to \$2,500,000 for reductions to annual Curbside Shared Spaces license fees;**
6 **affirming the Planning Department’s determination under the California Environmental**
7 **Quality Act; and making findings of consistency with the General Plan, and the eight**
8 **priority policies of Planning Code, Section 101.1.**

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

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

15

16 Section 1. CEQA and Land Use Findings.

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

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

25

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 March 31, 2023.
7 Businesses or individuals with annual gross receipts that do not exceed \$2,000,000 are
8 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 will provide businesses
21 with more resources to invest in complying with Curbside Shared Spaces program
22 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. Further, this ordinance would expand the existing 50%

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

5
6 Section 3. Article 2.1 of the Public Works Code is hereby amended by revising Section
7 2.1.1, to read as follows:

8
9 **SEC. 2.1.1. FEES.**

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

12 * * * *

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

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

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

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

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

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

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

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

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

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

6
7 Section 4. Chapter 94A of the Administrative Code is hereby amended by revising
8 Sections 94A.10 and 94A.12, to read as follows:

9
10 **SEC. 94A.10. FEES.**

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

17 (1) Public Works shall assess Sidewalk Shared Spaces permit and license fees
18 using the fees authorized in Article 2.1 of the Public Works Code. The fees to be imposed
19 shall be based on the proposed scope of the Sidewalk Shared Spaces Permit (e.g. sidewalk
20 tables and chairs, or other appropriate permit types).

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

24 (A) The ~~permit~~ license fees for Curbside Shared Spaces shall be due and
25 payable ~~upon the Tax Collector's issuance of the bill following permit approval, and the annual~~

1 ~~license fees shall be due and payable~~ annually on March 31, in accordance with Article 2, Section
2 76.1 of the Business and Tax Regulations Code, with the initial license fee, prorated as
3 described in Section 76.1(a), being due and payable upon the Tax Collector's issuance of the
4 bill for that fee following permit approval.

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

18 (C) ~~If a Permittee does not pay the permit fee within 30 days after it becomes due and~~
19 ~~payable, the Tax Collector shall add 10% to the amount of the permit fee as a penalty for nonpayment.~~
20 ~~If the permittee does not pay the fee within 60 days after it becomes due and payable, the Tax Collector~~
21 ~~shall add 15% to the amount of the permit fee as a penalty for nonpayment. If the permittee does not~~
22 ~~pay the fee within 90 days after it becomes due and payable, the Tax Collector shall add 25% to the~~
23 ~~amount of the permit fee as a penalty for nonpayment. If the permittee has failed for a period of six~~
24 ~~months or more to pay a permit fee, the Tax Collector shall impose an additional penalty of 25% on the~~
25 ~~amount of the delinquent permit fee, and shall refer the delinquent permittee to the Department of~~

1 ~~Public Works for administrative action on the permit. These penalties are mandatory and City officers~~
2 ~~and employees may not waive them in whole or in part.~~ Licensees shall be subject to penalties for
3 delinquent payment of license fees as provided in Article 2, Section 76.1 of the Business and
4 Tax Regulations Code.

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

7 * * * *

8
9 **SEC. 94A.12. TRANSITION OF EXISTING SHARED SPACES AND PARKLETS.**

10 * * * *

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

22 * * * *

23
24 Section 6. Effective Date; Retroactivity.

1 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
2 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
3 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
4 Mayor’s veto of the ordinance.

5 (b) The Board of Supervisors intends that this ordinance be operative to eliminate the
6 permit fees for Curbside Shared Space Permits that are due and payable on March 31, 2023
7 and thereafter. To effectuate this intent, the operative provisions of this ordinance shall be
8 retroactive to March 31, 2023 should the effective date of the ordinance occur after March 31,
9 2023. If any fees that are waived by this ordinance have been collected prior to its effective
10 date, said fees shall be promptly refunded on or after the effective date of the ordinance.

11
12 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the “Note” that appears under
17 the official title of the ordinance.

18
19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney

21 By: /s/ Giulia Gualco-Nelson
22 GIULIA GUALCO-NELSON
23 Deputy City Attorney

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25

LEGISLATIVE DIGEST

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

Ordinance amending the Public Works and Administrative Code to eliminate permit fees for Curbside Shared Spaces and increase the gross receipts threshold from \$2,000,000 to \$2,500,000 for reductions to annual Curbside Shared Spaces license fees; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Under Administrative Code Sections 94A.10 and 94A.12, permit and annual license fees for Curbside Shared Spaces, including Curbside Shared Spaces permitted pursuant to the 18th Supplement to the Mayor's proclamation of a public emergency and related supplements, are due and payable on March 31, 2023. Businesses or individuals with annual gross receipts that do not exceed \$2,000,000 are eligible for a 50% reduction to the annual license fee. Public Works Code Section 2.1.1 sets forth the fee schedule for the Curbside Shared Spaces permit fees and annual license fees.

Amendments to Current Law

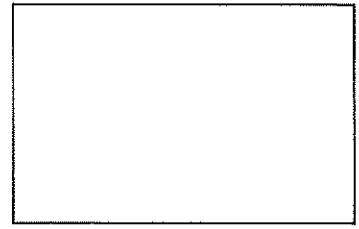
This ordinance would amend Public Works Code Section 2.1.1 and Administrative Code Sections 94A.10 and 94A.12 to eliminate permit fees for Curbside Shared Spaces. It would increase the gross receipts threshold to \$2,500,000 to qualify for the 50% reduction to the annual license fees.

The operative provisions of this ordinance would be retroactive to March 31, 2023 should the effective date of the ordinance occur after March 31, 2023. If any fees that are waived by this ordinance have been collected prior to its effective date, the fees would be promptly refunded on or after the effective date.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [] inquires..."
- 5. City Attorney Request
- 6. Call File No. [] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the Board on []

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Ahsha Safai

Subject:

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

Long Title or text listed:

Ordinance amending the Public Works and Administrative Code to eliminate permit fees for Curbside Shared Spaces and increase the gross receipts threshold from \$2,000,000 to \$2,500,000 for reductions to annual Curbside Shared Spaces license fees; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Signature of Sponsoring Supervisor: