

[Administrative and Public Works Codes - Shared Spaces Program]

Ordinance amending the Administrative Code to extend the grace period for an additional 120 days for permit applicants to operate under pandemic shared spaces permits, including any Just-Add-Music approvals related to these spaces, and convert the shared space use into a post-pandemic permit, and modify the consent procedures for fronting tenants and property owners; amending the Public Works Code to address abandonment of structures as part of shared spaces enforcement; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. Environment Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230124 and is incorporated herein by reference. The Board affirms this determination.

Section 2. The Administrative Code is hereby amended by revising Sections 94A.4, and 94A.5, to read as follows:

1 **SEC. 94A.4. INTERAGENCY COORDINATION.**

2 In coordinating their activities under the Program, the Core City Agencies shall have
3 the responsibilities set forth below.

4 (a) **Planning Department; General Coordination of Program Activities.** After a
5 prospective Permittee submits an application for a Shared Space, Planning will ensure review
6 and approval of the application. Specifically, Planning will:

7 (1) ~~Receive a People Place Proposal submitted by a prospective Steward pursuant to~~
8 ~~Section 94A.5 and review the Proposal for completeness and compliance with Program requirements.~~

9 ~~——— (2) If the People Place Proposal is determined to be complete and in compliance with~~
10 ~~Program requirements,~~

11 Ensure that the application is routed to all Core City Agencies with jurisdiction over
12 the proposed Shared Space for review and provide wholistic coordination of the program,
13 taking into account land use, transportation, public space, and urban design considerations.

14 * * * *

15 **SEC. 94A.5. SHARED SPACE PERMIT – APPLICATION, ISSUANCE,**
16 **MODIFICATION, AND REVOCATION.**

17 (a) **General Application Requirements.** A prospective Permittee may submit an
18 application for a Shared Spaces Permit consistent with the requirements of this Section
19 94A.5. After Planning has reviewed the application for completeness and compliance with
20 Program requirements, Planning will circulate the application to the Core City Agencies with
21 jurisdiction over the proposed Shared Space. Each proposed Shared Space application must
22 include the following components:

23 * * * *

1 (3) Documentation showing that all property owners of any building fronting a
2 proposed Sidewalk or Curbside Shared Space or the property owners' agents have been
3 notified by the prospective Permittee of the intent to submit an application for a Shared Space.

4 (A) **Sidewalk Shared Spaces.** If the prospective Permittee is not the
5 ground-floor tenant of the building fronting the sidewalk area proposed to be used as a
6 Sidewalk Shared Space, and/or the Permittee proposes to use sidewalk space other than the
7 sidewalk fronting Permittee's location, then documentary proof of consent from any ground-
8 floor tenant(s) fronting the areas proposed to be used as the Shared Space is also required.
9 In the event there is no ground-floor tenant of a building fronting the areas proposed to be
10 used as a Shared Space, then documentary proof of consent from the fronting property owner
11 or their agent is required.

12 (B) **Curbside Shared Spaces.** If the prospective Permittee is not the
13 ground-floor tenant of the building fronting the parking space proposed to be used as a
14 Curbside Shared Space, and/or if half or more of a marked parking space or any portion of an
15 unmarked parking space proposed to be used for a Curbside Shared Space would be outside
16 of Permittee's ground-floor frontage, then the prospective Permittee shall provide
17 documentary proof of consent from any ground-floor tenant(s) fronting the areas proposed to
18 be used as the Shared Space is also required. In the event there is no ground-floor tenant of a
19 building fronting the areas proposed to be used as a Shared Space, then documentary proof
20 of consent or from the fronting property owner or their agent is required after making a
21 good faith effort to obtain such consent. For purposes of this subsection, a good faith effort
22 shall be considered three documented written attempts to seek consent from ground-floor
23 tenant(s) or the fronting property owner or the owner's agent over a minimum period of six
24 weeks. If a prospective Permittee fails to obtain consent after a good faith effort, then this
25 requirement is waived. The street address location for the Curbside Shared Space need not

1 be the same street address as a ground-floor tenant(s) or the fronting property owner if the
2 fronting property has multiple street addresses whose occupants access a common entrance.

3 * * * *

4 ~~After a People Place Proposal has been reviewed and evaluated by Planning and the Core City~~
5 ~~Agencies with jurisdiction over the People Place Category, determined suitable for further~~
6 ~~development, and accepted into the Places for People Program pursuant to Section 94A.5(b), the~~
7 ~~prospective Steward may submit an application for a People Place Permit. After Planning has reviewed~~
8 ~~the application for completeness and compliance with Program requirements, Planning will direct the~~
9 ~~prospective Steward to submit the application to the Core City Agency with primary jurisdiction over~~
10 ~~the People Place.~~

11 * * * *

12
13 Section 3. The Administrative Code is hereby amended by revising Section 94A.12, to
14 read as follows:

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

16 **(a) Conversion of Permits Issued During the COVID-19 Pandemic.**

17 **(1) Extension of pandemic Shared Spaces Program and Permits.** Subject
18 to the wind down provisions of the Mayor's February 25, 2020 Proclamation Declaring the
19 Existence of a Local Emergency and the 18th, and 27th Supplement_s to that Proclamation, the
20 Core City Agencies shall operate the Shared Spaces program, and any temporary program
21 allowing entertainment or the use of amplified music in outdoors (referred to as Just-Add-Music or
22 JAM), authorized by the aforementioned Supplements to the Mayor's Proclamation until March 31,
23 2023, unless the Shared Spaces program authorized by the Mayor's Proclamation terminates
24 sooner. Any occupancy permitted as a Shared Space under that authority may continue
25

1 pursuant to the terms of the applicable permit (each a “pandemic Shared Spaces Permit”),
2 subject to the revocation provisions of this Chapter 94A.

3 (2) At any time prior to the expiration of the pandemic Shared Spaces Permit,
4 the Shared Spaces permittee may apply to convert their pandemic Shared Spaces Permit into
5 a new Shared Spaces Permit as provided herein. Conversion of a pandemic Shared Spaces
6 Permit shall follow the process set forth in this Section 94A.12, and any pandemic Shared
7 Spaces Permit that is converted to a new Shared Spaces Permit under this Chapter 94A must
8 comply with all of the terms of this Chapter 94A, including any approvals for the closure of the
9 curbside or roadway. The pandemic Shared Spaces permit shall be converted upon the
10 issuance of a new Shared Spaces Permit consistent with the requirements of Chapter 94A. In
11 the event of a conflict between this Chapter 94A and the terms of a pandemic Shared Spaces
12 Permit, the terms of this Chapter 94A shall prevail.

13 (3) Upon the expiration of any pandemic Shared Spaces Permit, the permittee
14 shall remove all structures and restore the public right-of-way to the Public Works Director’s
15 satisfaction. In the event the Mayor’s authorization of the Shared Spaces program expires
16 before the Shared Spaces permittee has converted the pandemic Shared Spaces Permit into
17 a new Shared Spaces Permit authorized by the terms of this Chapter 94A, if the proposed
18 Permittee has submitted a complete application for a new Shared Spaces Permit prior to the
19 earlier of 60 days after the expiration of the Mayor’s emergency authorization of the Shared
20 Spaces program or ~~July 1, 2022~~ March 31, 2023, the Permittee shall be permitted to continue
21 occupying the potential Shared Space for up to 180 days after expiration of the Mayor’s
22 Proclamation, including any Supplements thereto, pending a final determination by the Core City
23 Agencies on the proposed conversion of the pandemic Shared Spaces Permit into a new
24 Shared Spaces Permit authorized by the terms of this Chapter 94A, provided that the
25 Permittee diligently pursues such determination. If the Shared Spaces permit is not so

converted, then the permittee shall remove all structures and restore the public right-of-way to the Public Works Director's satisfaction.

* * * *

Section 4. The Public Works Code is hereby amended by revising Section 793.4, to read as follows:

SEC. 793.4. VIOLATION OF PERMIT CONDITIONS, OPERATIONAL REQUIREMENTS, OR ADMINISTRATIVE REGULATIONS; ENFORCEMENT ACTIONS AND PENALTIES.

(a) **Enforcement Actions; Penalties.** If any person has occupied a Shared Space in violation of any Permit conditions, operating requirements, or regulations applicable to the Shared Space, the Director of Public Works may take any action authorized by this Code that is considered necessary to abate or correct the violation. The Director is expressly authorized to:

(1) Modify the Shared Space Permit, withdraw the Director's approval of the Permit, or request revocation of the Permit by the Core City Agencies pursuant to Section 94A.5(g) of the Administrative Code;

(2) Issue a criminal citation pursuant to the provisions of Section 792(e)(1)(A) of this Code that is applicable to Street Plazas;

(3) Issue an administrative citation and assess the administrative penalties authorized by Section 792(e)(1)(B) of this Code for Street Plazas;; ~~provided, however, until April 1, 2023, the issuance of administrative fines or penalties shall be limited to: enforcing access requirements necessary for emergency responder personnel, and people with disabilities, including but not limited to unobstructed access to the sidewalk, maintenance of an accessible route with diverters, accessible tables, the provision of an appropriate platform~~

1 threshold and, when provided, ramps that meet accessibility requirements; ensuring visibility
2 (daylighting) at intersections identified in the Vision Zero High Injury Network; and requiring
3 removal of abandoned structures. Beginning on April 1, 2023, this limit shall expire by
4 operation of law and administrative fines and penalties may be issued to ensure compliance
5 with the Program in all respects.

6 (4) Call upon other City officials to assist in the enforcement of this Article 15,
7 including but not limited to the Chief of Police and the City Attorney;

8 (5) Seize, remove, or demolish any structures or furniture placed in public
9 sidewalk or roadway areas. The Director, in the Director's discretion, also may issue a written
10 determination that the structures or furniture are abandoned for purposes of the Department's
11 anticipated seizure, removal, or demolition. For purposes of this Subsection 793.4(a)(5),
12 "abandoned" means that 30 business days after the date of Public Works issuance of a Notice
13 of Violation, the permittee or party responsible for the structures or furniture has taken no
14 affirmative step(s) to bring the structures or furniture into compliance with this Sections 793 et
15 seq. Affirmative steps would include, but are not limited to, the following: (i) a written
16 agreement with the Director that includes specific actions and timelines to bring the structures
17 or furniture into compliance with Sections 793 et seq., (ii) the abatement of one or more
18 violations identified in the Notice of Violation that demonstrate to the Director that the
19 responsible party intends to bring the structures or furniture into compliance with Sections 793
20 et seq. or remove the structure and return the right-of-way to a condition acceptable to the
21 Director, or (iii) other demonstrable actions that satisfy the Director that the responsible party
22 will resolve the Notice of Violation.

23 (A) If a permit to place the structure or furniture has been rescinded or
24 expired, before any such structure or furniture is seized, the Permittee shall be notified and
25 given 10 business days to remove the structure or furniture. If the Permittee does not remedy

1 the underlying violation leading to the rescission of the permit and/or apply for a Shared
2 Space Permit within the time prescribed, the City may seize, remove, or demolish the
3 structure or furniture.

4 (B) Seized furniture shall be retained by the City and may be recovered
5 by the responsible party for a period of at least 30 business days following seizure. As a
6 condition of recovering any furniture seized pursuant to this Section or receiving a subsequent
7 Shared Spaces Permit, the Permittee shall pay an impound fee covering the actual cost to the
8 City of transporting and storing such furniture, unless the seizure is deemed improper
9 following a hearing under this subsection (a)(5).

10 (C) If the Director determines that it is practicable to do so, Public Works
11 shall retain any seized structures. As a condition of recovering any structure seized pursuant
12 to this Section or receiving a subsequent Shared Spaces Permit, the Permittee shall pay an
13 impound fee covering the actual cost to the City of transporting and storing such structure,
14 unless the seizure is deemed improper following a hearing under this subsection (a)(5).

15 (D) If the Director determines that it is not practicable to do so, Public
16 Works may demolish any unpermitted structure placed in the right-of-way. Where a Permittee
17 is responsible for an unpermitted structure that requires demolition, the Permittee shall not be
18 eligible for a subsequent Shared Spaces Permit until the Permittee has paid the fee covering
19 the actual costs to the City of demolishing and disposing of the structure(s). Such recoverable
20 costs may include those incurred by Public Works and any other City department, including
21 the City Attorney's Office, for time and materials spent enforcing the requirements of the
22 permit.

23 (E) Notwithstanding any other provision of this Section 793.4, if the
24 Director determines that any structure or furniture is placed in public sidewalk or roadway
25 areas in such a place or manner as to pose an immediate and serious danger to persons or

1 property, the City may seize such structure and furniture without prior notice to the Permittee if
2 it is impractical to remedy the danger by moving the structure or furniture to another point on
3 the sidewalk or public right-of-way.

4 (F) Following any seizure, the Permittee shall be notified promptly of
5 such seizure and shall have the right to request an informal hearing before a designated City
6 official to determine whether the seizure was proper. The Permittee must request the hearing
7 within 10 days of receiving notice of the seizure. Any furniture seized pursuant to this Section
8 shall be retained by the City and may be recovered as provided herein.

9 Failure to provide any notice to a Permittee pursuant to this section shall not give
10 rise to any claims or cause of action against the City; and

11 (6) Take any other enforcement action authorized by this Code that is applicable
12 to occupancy of the public right-of-way. If there are outstanding Departmental costs after
13 completion of the Department enforcement specified in Sections 793.4 et seq., the Director is
14 authorized to work with the community facilities district or similar taxing entity whose
15 jurisdictional boundaries include the location subject to the enforcement action to identify
16 potential reimbursement sources for such costs.

17 (b) Rules and Regulations; Director's Orders. The Director may adopt such orders,
18 rules, policies, procedures, regulations, rules, or standards as the Director considers
19 appropriate in order to:

20 (1) process, verify, and respond to complaints from the public concerning a
21 Curbside or Sidewalk Shared Space that is routed from the 311 Customer Relationship
22 Management System, as described in Administrative Code Section 94A.9(a);

23 (2) abate a violation of the terms and conditions of a Sidewalk or Curbside Shared
24 Space Permit or other requirements of Administrative Code Chapter 94A that are within the
25 jurisdiction of the Director; and

1 (3) identify specific violations that would be subject to the criminal citation penalty
2 authorized in subsection (a)(2) above.

3 (c) Public Hearing. In taking any of the above actions, the Director of Public Works
4 may hold a public hearing on the Permittee's conduct. If a public hearing is held, the Director
5 shall follow either the notice and hearing procedures for Street Encroachment Permits set
6 forth in Section 786 et seq. of this Code or a codified notice and hearing procedure that is
7 more applicable to a Shared Spaces Permit.

8
9 Section 5. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 Section 5-6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the "Note" that appears under
19 the official title of the ordinance.

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21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/
24 JOHN D. MALAMUT
Deputy City Attorney

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