

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: January 4, 2024
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee
Subject: Board of Supervisors Legislation Referral - File No. 231192
Administrative Code - Shared Space at 1429 Mendell Street Parklet

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.



City and County of San Francisco
Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 231192 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Shared Space at 1429 Mendell Street Parklet **Date Introduced:** 11/14/2023

Requester: _____ **Cost:** _____ **Final Action:** _____

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

Sponsor: Walton

History of Legislative File 231192

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	11/14/2023	ASSIGNED UNDER 30 DAY RULE	Rules Committee	12/14/2023	

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

2

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.

11

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

13

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. ____ and is incorporated herein by reference.
18 The Board affirms this determination.

19

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
25

25

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.

3
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.

22
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
25

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.

3

4

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

6

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

9

n:\legana\as2023\2400066\01717630.docx

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

LEGISLATIVE DIGEST

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

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

Existing Law

Restaurants, bars, and other establishments may place outdoor seating on public sidewalks and streets under the Shared Spaces Program, regulated by Chapter 94A of the Administrative Code.

During the COVID-19 emergency, an existing business at 1429 Mendell Street (between Oakdale and Palou Streets) installed a food service parklet on the public right-of-way. This food service parklet is located on the vehicular portion of Mendell Street, which has been closed to vehicular traffic. Because the food service area is not located in the curbside lane, it does not qualify as a Curbside Shared Space. The food service area does not qualify for a Sidewalk Shared Space permit because it is not located on the sidewalk.

Amendments to Current Law

This ordinance would waive provisions of the Administrative Code to allow the parklet at 1429 Mendell Street to be considered a Curbside Shared Space that is a Fixed Commercial Parklet. Any provisions of those Administrative Code Sections that need not be waived for that purpose are not waived. The waiver is conditioned on the parklet's compliance with all regulations regarding public health and safety design features for Shared Spaces and that the parklet undertake physical modifications to become compliant with applicable laws and similarly situated Shared Spaces.

n:\legana\as2023\2400066\01717642.docx

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):

Walton

Subject:

Administrative Code - Shared Space at 1429 Mendell Street Parklet

Long Title or text listed:

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

Signature of Sponsoring Supervisor:

From: [Gee, Natalie \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#); [GUALCO, GIULIA \(CAT\)](#)
Cc: [Walton, Shamann \(BOS\)](#); [Burch, Percy \(BOS\)](#); [PEARSON, ANNE \(CAT\)](#)
Subject: Walton - Introduction Shared Spaces Waiver Ordinance
Date: Tuesday, November 14, 2023 1:09:09 PM
Attachments: [01717642.DOCX](#)
[01717630.DOCX](#)
[Walton - Introduction Form - 1429 Mendell Street.pdf](#)

Good afternoon Clerk Team,

Attached is Supervisor Walton introduction form, legislation, and digest for today for Administrative Code - Shared Space at 1429 Mendell Street Parklet.

I've looped in DCA [@GUALCO, GIULIA \(CAT\)](#) to confirm their signature.

Natalie Gee 朱凱勤, Chief of Staff

Supervisor Shamann Walton, District 10

1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 282

Direct: 415.554.7672 | **Office:** 415.554.7670

District 10 Community Events Calendar: <https://bit.ly/d10communityevents>

From: Gualco-Nelson, Giulia (CAT) <Giulia.Gualco-Nelson@sfcityatty.org>

Sent: Tuesday, November 14, 2023 10:59 AM

To: Burch, Percy (BOS) <percy.burch@sfgov.org>

Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>

Subject: Shared Spaces Waiver Ordinance - for intro 11-14-23

Hi Percy –

Attached is the shared spaces waiver legislation for 1429 Mendell Street (Old Skool Café), for introduction today. The ordinance is approved as to form. I have also attached the legislative digest.

Please let me know if you have any questions. I am working from home today and can be reached on my cell 415-425-6145.

Best,
Giulia

PRIVILEGED & CONFIDENTIAL
ATTORNEY CLIENT COMMUNICATION
ATTORNEY WORK PRODUCT

Giulia Gualco-Nelson
Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4617 Direct
www.sfcityattorney.org

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

2

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.

11

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

13

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. ____ and is incorporated herein by reference.
18 The Board affirms this determination.

19

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
25

25

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.

3
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.

22
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
25

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.

3

4

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

6

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

9

n:\legana\as2023\2400066\01717630.docx

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25