



TOWN OF FAIRFAX

STAFF REPORT

October 6, 2022

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager
David Woltering, Interim Planning and Building Services Director

SUBJECT: Adoption of a Resolution Adopting Fees for the Parklet Program for Inclusion in the Master Fee Schedule

RECOMMENDATION

Adopt the Resolution Adopting Fees for the Parklet Program for Inclusion in the Master Fee Schedule.

BACKGROUND

In June 2020, Fairfax began allowing outdoor dining in response to COVID-19 restrictions via temporary encroachment permits (TEPs) to use the public right-of-way, and temporary use permits (TUPs) for private outdoor spaces. On May 5, 2021, Council extended the term for TEPs and TUPs to May 8, 2022. On April 6, 2022, Council provided direction on new requirements for outdoor dining structures, and the Council extended the current TEPs and TUPs. Next, the Planning Commission reviewed the proposed zoning changes for outdoor dining, and then staff brought outdoor dining ordinances to the Town Council for first reading on June 15, 2022. At that meeting, the Council directed staff to make several changes to the ordinances and parklet standards guide, and to extend the TEPs and TUPs to December 15, 2022 to allow time for the businesses to be in full compliance with the anticipated ordinances. Critical flaws in any existing parklets were to be fixed by the end of September. The first reading of the ordinances was conducted on August 3, 2022 and the second reading and adoption was completed on September 7, 2022, with the effective date of October 7, 2022. The Parklets Standards Resolution was adopted on August 3, 2022. Collectively, the adopted ordinances and resolution establish a Parklets Program, allowing parklets in the Town's Central Commercial (CC) Zone and Highway Commercial (CH) Zone, subject to compliance with the provisions of the ordinances and the adopted Parklets Standards resolution. The Parklets Program ordinance indicates the Town Council may establish by resolution fees for the review of Parklet applications as well as the rental of the public right-of-way. The Parklets Program resolution allows for both Private Parklets and Public Parklets and includes the following definitions:

Outdoor Parklet Area: Portions of the public sidewalk or public right-of-way within a commercially zoned district in the Town which are used by a dining or other establishment for the serving and consuming of food and beverages or other commercial activity, including licensed establishments for the serving and consuming of intoxicating beverages.

Private Parklet: A parklet constructed, used, and maintained by a dining establishment for the exclusive use by its patrons and not available for general public use. Private Parklets require payment of rental charges, as set by the Town Council, for use of the public right-of-way.

Public Parklet: A parklet constructed, used and maintained by a dining establishment for the non-exclusive use by its patrons and members of the public. Public Parklets do not require payment of

rental charges for use of the public right-of-way due to the availability of the space to members of the public who may not be purchasing food and/or beverages from the adjacent dining establishment.

DISCUSSION

Staff has researched the parklet fee programs of a broad range of communities and found significant differences in the amounts and types of fees charged for parklets. Generally, though, there is an application fee, a fee charged per public parking space used for the parklet, and, where there is a public parklet, the fee is reduced for the public parklet. Sometimes, there is a deposit charged which is refundable when the parklet is satisfactorily removed. Representative examples of base fees charged are as follows:

City of San Mateo:

- Application fee: \$500
- Annual permit fee: \$250 per space

City of Sausalito:

- Application fee: \$750
- Annual permit fee: \$1,000 per parking space
- Street maintenance deposit: \$2,000

City of San Francisco:

- Public Parklet:
 - \$500-\$1,000 for 1st space and \$125-\$250 for a second space, range dependent on revenue
 - \$50-\$100 annual license fee per space, range dependent on revenue
- Private Parklet:
 - \$1,500-\$3,000 for 1st space and \$750-\$1,500 for a second space, range dependent on revenue
 - \$1,000-\$2,000 annual license fee per space, range dependent on revenue

The Town's adopted Parklet Program resolution indicates the Town Council may establish fees for review of parklet applications and rental of the public right-of-way. Presently, there is not a Town precedent for establishing these fees. The Town does rent Bolinas Park for the Farmers Market for approximately 24 days in the year from May into October for which it collects approximately \$2,675. Considering the examples above, and other information gathered while conducting its research, staff is recommending an application fee of \$500 for both Private and Public Parklets and an annual parking space rental fee for Private Parklets of \$500 per parking space and an annual parking space rental fee for Public Parklets of \$250 per parking space.

FISCAL IMPACT

It is anticipated that the fees proposed would approximate and not exceed staff time required to review the applications.

ATTACHMENT

Resolution

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADOPTING FEES FOR THE PARKLET PROGRAM FOR INCLUSION IN THE
MASTER FEE SCHEDULE**

WHEREAS, California Government Code section 50076 permits municipalities to charge fees for services or regulatory activities which do not exceed the reasonable cost of providing those services or activities; and

WHEREAS, the Town has analyzed the Town's Parklet Program, and determined an application fee of \$500 for both Private and Public Parklets and an annual parking space rental fee for Private Parklets of \$500 per parking space and an annual parking space rental fee for Public Parklets of \$250 per parking space to be reasonable; and

WHEREAS, Annual Permit holders of the Parklet Program also will be required to obtain a Town business license.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Fairfax does hereby adopt and authorize an application fee of \$500 for both Private and Public Parklets and an annual parking space rental fee for Private Parklets of \$500 per parking space and an annual parking space rental fee for Public Parklets of \$250 per parking space to be included in the Town's Master Fee Schedule.

The foregoing Resolution was duly passed and adopted at a Regular Meeting of the Town Council of the Town of Fairfax held in said Town on the 6th day of October 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Stephanie Hellman, Mayor

Attest:

Michele Gardner, Town Clerk