



TOWN OF FAIRFAX

STAFF REPORT

May 3, 2023

TO: Mayor and Town Council

FROM: Mark Lockaby Building Official

SUBJECT: Receive Status Report on Long-Term Outdoor Dining Structures and Provide Direction to Staff

RECOMMENDATION

Staff recommends that the Council receive the report and provide direction to staff on how to proceed with parklet operators who have not submitted fees or applications.

BACKGROUND

In June 2020, Fairfax began allowing outdoor dining and retail uses 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 the new requirements for outdoor dining structures, and the Council extended the current TEPs and TUPs. The Planning Commission reviewed the proposed zoning changes to outdoor dining, and then staff brought an outdoor dining ordinance to the Town Council for first reading on June 15, 2022.

The Council's discussion of the parklets program has communicated with the public and the businesses via Town Council Meetings, newspaper articles, the Town Newsletter, and letters directed to the businesses that currently have parklets, including an update prior to this meeting.

At the June 15, 2022, Council Meeting, Council directed the following requirements be implemented for parklets:

1. Fixed overhead coverings are allowed (i.e., roofs and sunshades) if they are transparent and don't block the view of other businesses. Movable umbrellas are also allowed and may have branding or business names printed on the umbrellas.
2. No gas outdoor heaters. Electric heaters are allowed with proper safety measures for cords and fire danger.
3. Electric lighting and reflective tape along the outside edge of the structure is required.
4. No signage on the outside of the parklet structure.
5. Annually, Town will charge permit fees and rental/license fees for use of the Town's space, and an annual inspection may be required. Permits can be approved ministerially and do not require further approval by Planning Commission nor Town Council.
6. Do not allow new parklet structures until after December 15, 2022 extension has expired and new ordinance and zoning regulations are in place.
7. Parklets allowed only along the length or width of the business, not in front of another business, unless both share the space via written agreement

8. Minimum four feet of unobstructed sidewalk adjacent to the parklet.
9. Maximum of two parallel spaces or four diagonal spaces can be used for a parklet per business.
10. Parklet structures must be constructed to safeguard public safety, including:
 - a. Sightlines for corners and driveways,
 - b. Set back one foot from lane of travel,
 - c. Set back needed for adjacent parking,
 - d. Do not obstruct fire hydrants nor storm drainage, and provide easy access to in-street utilities,
 - e. Only allowed in commercial zones with speed limit 25 miles per hour or less, and
 - f. Meet ADA requirements (platform flush with sidewalk, etc.).

On October 6, 2022 the Town Council established the following fees:

- An application fee of \$500 for both Private and Public Parklets.
- A deposit for street maintenance/remediation of the space in the amount of \$1000.00.
- An annual parking space rental fee for Private Parklets of \$1000 per parking space.
- An annual parking space rental fee for Public Parklets of \$500 per parking space.

Current holders of a Temporary Encroachment Permit (TEP) for an existing parklet will be charged an annual parking space rental fee for Private Parklets of \$500 and an annual parking space rental fee for Public Parklets of \$250, both for the first year only, but only if those existing holders of TEPs apply and paid the first year fees by December 15, 2022.

DISCUSSION

In August Interim Planning Director David Woltering and Building Official Mark Lockaby inspected all the parklets to determine if there were any accessibility, or other code compliance issues. We put together a checklist for each parklet space.

In early November, the Interim Planning and Building Services Director, David Woltering, and Building Official, Mark Lockaby began meeting with Parklet Owners to discuss changes that needed to be made and let them know the fees that would be required. Each parklet owner was provided with a checklist specific to their parklet showing items that needed to be corrected/addressed to be compliant with the Town Ordinance, code compliance, and accessibility. Parklet owners had a deadline of December 15, 2022 to submit an application, and fees in order to have reduced rental fees for the first year. Following is the status of each parklet:

Coffee Roastery

Fees paid, and checklist items completed.

Village Sake

Fees paid; and checklist items completed except for transition change. Currently a portable ramp is provided for wheelchair access.

Fairfix/Fradelizios Shared

Fees paid; checklist items completed. The Curbside Pick Up Parking sign needs to be removed.

Hen House Brewing

Fees paid; the parklet is being completely rebuilt. Work has not been completed.

Amelie Café

Fees paid; Application submitted. Most checklist items are completed.

Barefoot Cafe

Fees paid; applicant working on other items.

Gestalt Haus

Fees paid; applicant working on other items.

Hummingbird

No fees paid; no application submitted. The owner requested a reduction in fees because others use the area, and no parking spaces are used.

Stillwater

No fees paid; no application submitted. Multiple emails sent requesting fees, and application.

FISCAL IMPACT

None at this time

ATTACHMENTS

None