



SUBJECT: Parklet Ordinance – Assembly/Removal Timing

SUBMITTING DEPARTMENT: City Manager

RECOMMENDED ACTION: Discuss question from parklet operator, make a determination, and if necessary, set 1st public reading date to amend ordinance.

STRATEGIC OUTCOME/INITIATIVE: Inclusive, Equitable & Welcoming Community; Thoughtfully Planned Built Environment; Responsive and Responsible Government

PRIOR ACTION: Council enacted the Parklet Ordinance on February 28, 2018. On October 24, 2018, Council made amendments to the ordinance, which included changing the length of the operating season.

EXPENDITURE REQUIRED: None

SOURCE OF FUNDS: N/A

LEGAL REQUIREMENTS: If an amendment to the ordinance is necessary, two public readings will be required before being effective.

BACKGROUND INFORMATION: The ordinance states that “Parklets may be maintained and operated only during the period commencing May 1st until October 25th of each year.” One of the parklet operators, who’s parklet took 5 days to assemble, has inquired as to whether or not assembly must take place during the operating time stated in the ordinance, or if it can begin before that time period so that operation can begin on May 1st. Furthermore, would the parklet need to be disassembled and removed on or before October 25th, or can operation stop on that date with a few days given for disassembly and removal.

SUPPORTING DOCUMENTS: Parklet Ordinance

INTERESTED PARTIES: Parklet Operators, Business owners, Montpelier Alive, Montpelier Business Association

CITY MANAGER’S APPROVAL: 

CHAPTER 20

PARKLETS

Sec. 20-1. This ordinance is intended to regulate the temporary establishment, maintenance and operation of space within dedicated street and highway right-of-way limits for public, private, civic and commercial use as parklets.

Sec. 20-2. Parklets are public seating platforms that convert curbside parking spaces into vibrant community spaces. Most parklets have a distinctive design that incorporates seating, greenery, and/or bike racks and accommodate unmet demand for public space on thriving neighborhood retail streets or commercial areas. (National Association of City Transportation Officials)

Sec. 20-3. The City Council shall designate the location and boundaries of space within one or more dedicated street or highway as areas in which parklets may be established and maintained. Such designation will take into consideration impediment to public use of streets and highways, vehicular and pedestrian safety, congestion, noise, litter and public health.

Sec. 20-4. The City Council may allow parklets covering up to six parking spaces in total. No single parklet will exceed two parking spaces. Applications may be submitted between the dates of November 1 and February 1. City Council consideration of all submitted applications will be completed between February 15 and May 1 of any given year unless extended due to issues raised during the application process. The approved application will extend for up to three years; parklet owners may apply for renewal after expiration. Public notice of application shall be posted no less than 10 days prior to the Council meeting when the application is being considered.

Sec. 20-5. A person seeking to install a parklet in a designated location shall submit a completed application form and parklet plan (architectural renderings & site plan) to the City Manager or his/her designee between November 1 and February 1, and shall remit to the City Treasurer a non-refundable application fee of \$50.00 (or as may be amended from time to time). At the time of application, they shall also provide direct notice of their application to businesses within 150 feet of the proposed parklet location. The application will not be considered complete until applicant provides a list of businesses who have been provided notice and the dates and method by which such notice was provided.

Sec. 20-6. Parklet applications require an advisory opinion from the Design Review Committee (DRC), and will also be evaluated by City staff, including the Public Works Department and the Police Department, using the following technical compliance criteria:

- (a) Suitable location in central business district (Designated Downtown);
- (b) Pedestrian access and ADA accessibility;
- (c) Material maintenance, installation and removal portability;
- (d) Attractiveness and durability of design;
- (e) Safety considerations, including barriers, traffic signs, railings, wind stresses, traffic & pedestrian visibility;
- (e) Assignment of maintenance responsibility – trash, etc;
- (f) Drainage management & access; and
- (g) Design and placement:
 - Service access to public and private utilities,
 - Maximum of 7-foot width,

Maintain paths of water drainage from center line of road to curb, and along the curb,
Finished surface of parklet floor to be flush with curb, ½ inch gap max,
4-foot distance from parklet to wheel stop,
3-foot wheel stop installed 1' from curb,
Reflective soft hit posts at each corner of the parklet-occupied parking space, and
Protected outside edge with Manual on Uniform Traffic Control Devices-compliant object markers.

Parklets may feature:

- (a) Tables and chairs
- (b) Benches
- (c) Planters and landscaping features
- (d) Art Work
- (e) Bike Racks

While other features may be acceptable, the goal of these spaces is to enhance the pedestrian experience downtown by providing places for activities on the commercial streets of the city. Parklets may only be restricted to use by patrons of a particular establishment or group of cooperating businesses during their operating hours, and otherwise must be open to the general public for their enjoyment. Parklets may be used as an accessory space for a nearby business or businesses, but they may not be used as a stand-alone place of business. All parklets shall include signage which indicates the hours of private operation and states that the parklet is open to the public at other times.

Sec. 20-7. The applicant must secure any City and State permits that may be required, including but not limited to floodplain approval under the City's river hazard area regulations and water/wastewater approval from the State.

The City Council shall consider the following when determining whether to approve a parklet application:

- (a) Impact on the residents and businesses in the immediate area
- (b) Public Comments
- (c) Comments from City departments and boards including the technical criteria
- (d) Aesthetics
- (e) Applicant's experience with prior parklets including public health, public safety and utilization
- (f) Geographic distribution of parklets
- (g) Variety of parklets – style and usage
- (h) In a conflict over available parking spaces, preference will be given to full public use parklets over privately owned and operated parklets.

After consideration of the above factors, the council – at its sole discretion – may approve or deny any application.

The City reserves the right to order or undertake the immediate removal of a parklet in the event of an emergency or street maintenance or repair.

The City Council may terminate the permit prior to expiration based on violation of ordinances, improper use of the parklet or evidence of negative impact in the area. Prior to any formal termination action, the Council will refer the issue to the Community Justice Center (CJC). In the event that the restorative justice process is not successful, CJC may refer the matter back to the City Council.

Termination may only occur following a public hearing at a regularly warned City Council meeting. The City will provide a 15 day notice of the hearing to the permit holder. Such notice will include the potential reasons for termination. The permit holder will be provided the opportunity to address the stated concerns. The hearing will be conducted in the same manner as regular City Council meetings. Termination will be at the discretion of the Council following the hearing. In the event that a permit is terminated, the City will refund a prorated amount of fees paid based on the time of actual use.

Following City staff report, DRC advisory opinion, and approval by the City Council, each applicant shall enter into an agreement with the City under which the applicant shall construct and operate the parklet, as well as provide specified daily maintenance. The applicant's failure to comply with said agreement shall result in the termination of applicant's approval to install and operate the parklet, and removal of said parklet immediately upon receipt of notice, and restoration of the area to a condition at least equal to pre-existing conditions. The City reserves the right to take legal action to recover costs if applicant fails to remove parklet in a required time frame and the City must handle removal. The applicant is responsible for all costs incurred by the City in remediating any non-conformance with the ordinance or the agreement, or for parklet removal and site restoration after October 25 or otherwise.

The applicant's interest in the agreement under Section 7 is not assignable without the prior consent of the City.

Sec. 20-8. Prior to the construction, installation or operation of any parklet component, the applicant shall:

- (a) Furnish the City Clerk with proof of comprehensive general liability insurance in a minimum of \$1,000,000 per occurrence, naming the City as additional insured; and
- (b) Remit to the City Treasurer a sum equal to \$768.00 (25 weeks plus 3 days @ \$30/week) (or as may be amended from time to time) for each metered parking space that will be displaced by the parklet.

Sec. 20-9. At all times the parklet is in operation, smoking is prohibited and the applicant shall conform to all laws and regulations relating to the sale and consumption of alcoholic beverages and food safety within the parklet.

Sec. 20-10. Parklets may be maintained and operated only during the period commencing May 1st until October 25th of each year.

Enacted February 28, 2018. Date of Publication: March 3, 2018. Effective Date: March 15, 2018.
Amended October 24, 2018. Effective Date: November 8, 2019