

ORDINANCE NO. C-_____

An ordinance creating a licensing program for parklets and streateries in Spokane and establishing the fee structure for such licenses; enacting a new chapter 10.55 and a new section 08.02.0235 of the Spokane Municipal Code.

WHEREAS, for the past two summers, downtown Spokane has been the location of a successful pilot program for parklets; and

WHEREAS, parklets and streateries help to activate and improve the public realm, by allowing greater opportunities for people to socialize and interact with others and to activate the streetscape, leading to decreases in crime and an enhanced sense of public safety; and

WHEREAS, restauranters and bar owners have successfully implemented sidewalk cafes in downtown Spokane in recent years, and the desire exists to extend, in the appropriate situations and locations, sidewalk cafés into an adjacent parking space(s) (known as “streateries”) in Spokane; and

WHEREAS, parklets and streateries have been used in many cities of all sizes throughout North America and are proven methods to increase the vibrancy and activity of a streetscape; and

WHEREAS, the City Council intends to establish a licensing program for parklets and streateries in order to build on the successful pilot programs of the past two summers in downtown Spokane and improve the quality of life in Spokane.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there is enacted a new chapter 10.55 of the Spokane Municipal Code to read as follows:

Chapter 10.55 Parklets and Streateries
Section 10.55.005 Definitions

- A. “Parklet” means a small public gathering space, occupying up to two parking stalls or a loading zone, as applicable, on a public street, and treated in all respects as a public sidewalk, but the facilities of which are privately owned and maintained.
- B. “Streatory” means up to two parking stalls or a loading zone, as applicable, used either as an extension of, or a stand-alone sidewalk café, connected visually to, and for use by patrons of, a nearby restaurant or bar and service at which is subject to all the terms and conditions of the nearby restaurant or bar’s food service permits and alcohol licenses.

Section 10.55.010 License Required

It is unlawful to install or operate a parklet or streatory without a written license to do so from the city engineer as provided in this chapter and SMC 08.02.0220. All licenses issued under this chapter and SMC 08.02.0220 are temporary and personal licenses, revocable by the City at any time.

Section 10.55.020 License Class

Parklet and streatory licenses are Class IIIE licenses and are subject to SMC Chapter 04.04.

Section 10.55.030 Construction

By enactment of this chapter, the City Council deems the licensing of parklets and streateries in Spokane to be in the best interest of the people of the City and the provisions of this chapter shall be reasonably construed by the City to balance the needs of the license applicant with the protection of public safety.

Section 10.5.5.040 Application

- A. In addition to the information required by SMC 10.55.060, an application for a parklet or streatory license shall state:
 - 1. The anticipated periods of use during the year, and the proposed hours of daily use, including Saturdays, Sundays and holidays; and
 - 2. Whether any liquor as defined in RCW 66.04.010 will be sold or consumed in the area to be covered by the license.
- B. At the time of application the city engineer shall set a time for an administrative hearing before which the public may offer objections to the issuance of the license.

Section 10.55.050 Notice to Adjacent Property Owners and Users

- A. The applicant shall mail or serve a notice stating the:
 - 1. Nature of the application;
 - 2. The parklet or streatory area sought to be used; and
 - 3. Date, time and place at which the city engineer will consider such application

at least ten days prior thereto, upon the owners, building managers and street-level tenants of the properties on the block face on which would be located the proposed parklet or streatory and the block face across the street from the proposed parklet or streatory, as well as any parking meters or loading zones to be impacted and shall file with the city engineer a copy of the notice mailed and a list of the persons to whom it was sent.

- B. The city engineer shall prepare notices containing the license application details and shall deliver to the applicant a public notice, which shall be posted in a window or on the building exterior of the adjacent property.

Section 10.55.060 Parklet Terms and Conditions

- A. The City Engineer shall issue a license for the use of a parking stall(s) as a parklet upon such terms and conditions as the City Engineer, in the exercise of his/her professional discretion, may deem appropriate, if the City Engineer determines that:
1. The applicant is the owner or occupant of the property adjacent to the proposed parklet area;
 2. The applicant has the permission of the owner and occupant, if different, of the property adjacent to the proposed parklet area to place a parklet in the proposed location;
 3. The proposed parklet use would not unduly and unreasonably impair passage of the public on the sidewalk adjacent to the area for which the license is sought; and
 4. The design and construction of the proposed parklet meets all applicable guidelines.
 5. No more than one parklet or streatory would be placed per block face.
- B. Terms and conditions imposed by the City Engineer upon the approval of a parklet application may include, without limitation:
1. restrictions as to the number and placement of furnishings (such as tables and chairs) and as to the hours and dates of use;
 2. a requirement that the parklet and all associated furnishing, fixtures, and equipment in the parklet area be cleared when not in use as a parklet, upon the request of the city engineer or other appropriate City officer, such as the chief of police or fire official or their authorized representatives, and that if the licensee does not clear the area, the City may clear the area with the licensee liable to the City for the cost of such work;
 3. a requirement that the parking space(s) be vacated and restored to their original condition and free from all obstructions from November 1 through April 1 of each year;
 4. that the licensee shall maintain the sidewalk adjacent to the parklet as well as the parklet itself in a clean and safe condition for pedestrian travel and use, and if the applicant fails to maintain the area that the City may, in its sole discretion, perform such maintenance, cleaning, and/or repairs as the City deems necessary with the applicant liable to the City for the cost of such maintenance, cleaning, and/or repairs;
 5. a requirement that the licensee maintain the parking stalls adjacent to the parklet area clean and free of debris;

6. a requirement that the applicant maintain the sidewalk adjacent to the parklet as necessary to accommodate deliveries to adjacent or other nearby properties;
 7. regulations upon lighting and illumination of the parklet;
 8. an indemnity agreement approved by the City Attorney's Office in accordance with the provisions of this chapter;
 9. a requirement that the parklet area display a sign, approved or provided by the City, stating the permitted hours of use for the parklet.
- C. Unless expressly authorized by the City, no license applicant authorized to construct, maintain, and operate a parklet under this chapter shall:
1. Break or damage any pavement or street surface;
 2. Disturb, remove, damage, or obstruct any parking meters, signs, or parking area striping;
 3. Place adjacent to or obstruct safe, accessible access to a bus stop;
 4. Permanently install any fixture of any kind; or
 5. Cover or obstruct any utility manholes or handholes;
- in or on the parking space(s) occupied by a parklet or in or on the sidewalk area adjacent to the parklet area.
- D. The terms and conditions of this section are in addition and supplemental to all other City permit requirements including, without limitation, the fire and building codes and the City's noise regulations stated in chapter 10.08D of the Spokane Municipal Code, as applicable.

Section 10.55.065 Streatery Terms and Conditions

- A. The City Engineer shall issue a license for the use of a parking space(s) as a streatery upon such terms and conditions as the City Engineer, in the exercise of his/her professional discretion, may deem appropriate, if the City Engineer determines that
1. The applicant is the owner or occupant of the adjacent property and operates a cafe or restaurant thereon;
 2. The applicant has the permission of the owner and occupant, if different, of the property adjacent to the proposed streatery area to place a streatery in the proposed location;
 3. The proposed streatery is included adjacent to, near, or within a food service establishment permit issued by the Spokane City-County health district, or its representative, which has otherwise authorized such use of the area; and

4. The proposed streatory use would not unduly and unreasonably impair passage of the public on the sidewalk adjacent to the area for which the license is sought.
 5. No more than one parklet or streatory would be placed per block face.
- B. Terms and conditions imposed by the City Engineer upon the approval of a streatory application may include, without limitation:
1. restrictions as to the number and placement of furnishings (such as tables and chairs) and as to the hours and dates of use;
 2. a requirement that the streatory and all associated furnishing, fixtures, and equipment in the streatory area be cleared when not in use as a streatory, upon the request of the city engineer or other appropriate City officer, such as the chief of police or fire official or their authorized representatives, and from November 1 through April 1 of each year, and that if the area is not cleared, the City may clear the area and charge the costs for such clearance to the licensee;
 3. that the streatory be removed immediately if the applicant's food establishment or liquor permit is revoked;
 4. that the licensee shall maintain the sidewalk adjacent to the streatory as well as the streatory itself in a clean and safe condition for pedestrian travel and use, and if the applicant fails to maintain the area, the City may, in its sole discretion, perform such maintenance, cleaning, and/or repairs as the City deems necessary with the applicant liable to the City for the cost of such maintenance, cleaning, and/or repairs;
 5. a requirement that the licensee maintain the parking stalls adjacent to the streatory area clean and free of debris;
 6. a requirement that the applicant maintain the sidewalk adjacent to the streatory as necessary to accommodate deliveries to adjacent or other nearby properties;
 7. regulations upon lighting and illumination of the streatory;
 8. an indemnity agreement approved by the City Attorney's Office in accordance with the provisions of this chapter;
 9. a requirement that the streatory area display a sign, approved or provided by the City, stating the permitted hours of use for the streatory.
- C. Unless expressly authorized by the City, no license applicant authorized to construct, maintain, and operate a streatory under this chapter shall:
1. Break or damage any pavement or street surface;
 2. Disturb, remove, damage, or obstruct any parking meters, signs, or parking area striping;
 3. Place adjacent to or obstruct safe, accessible access to a bus stop;
 4. Permanently install any fixture of any kind; or
 5. Cover or obstruct any utility manholes or handholes;

in or on the parking space(s) occupied by a parklet or in or on the sidewalk area adjacent to the parklet area.

- D. The terms and conditions of this section are in addition and supplemental to all other City permit requirements, including, without limitation, the fire and building codes and the City's noise regulations, stated in chapter 10.08D of the Spokane Municipal Code, as applicable.

Section 10.55.070 Liquor Use and Sale

Liquor, as defined in RCW 66.04.010, as now existing or hereafter amended, may be used and sold at a streatory when authorized in both the license provided for herein and by permit of the Washington State Liquor and Cannabis Board ("LCB"), and not otherwise. Nothing in the chapter shall be construed or deemed to modify, conflict with, or allow separate conditions for alcohol use, sale, or consumption than those provided in Title 66, RCW, specifically chapter 66.20, RCW, WAC 314-03-200, and LCB Board Interim Policy BIP 06-2011 (Aug. 10, 2011). Nothing herein shall be deemed or construed to allow liquor use or consumption on a parklet as the same is defined in this chapter.

Section 10.55.080 Insurance Required

An applicant for a parklet or streatory license shall, prior to issuance of such license, provide and maintain in full force and effect while the license is in effect, public liability insurance in the amount specified by SMC 12.02.0718 to cover potential claims for bodily injury, death or disability and for property damage, which may arise from or be related to the use of the parking space(s) and sidewalk area adjacent thereto for parklet or streatory purposes, naming the City as an additional insured.

Section 10.55.090 Indemnity – License Revocation

- A. The applicant for a parklet or streatory license shall execute and deliver to the City upon a form approved by the City Attorney's Office an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such parklet or streatory.
- B. In addition, such agreement shall contain a provision that the license is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the licensed use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the parklet or streatory ordered removed, and if the licensee fails to remove the parklet or streatory that the City may, in its sole discretion, remove the parklet or streatory with the costs of such

removal and any related storage to be charged to the licensee.

- C. Every such agreement, after it has been received in his office and numbered, and after the same has been recorded, shall be retained by the city clerk.

Section 10.55.100 Compliance – Street and Sidewalk Condition

The applicant shall comply with the terms and conditions of the parklet or streaterly license issued, and shall maintain the parking space(s) and the sidewalk area adjacent thereto in a clean and safe condition for pedestrian travel, and shall immediately clear the parklet or streaterly area when ordered to do so by the city engineer or other appropriate City officer such as the chief of police or fire official or their authorized representatives.

Section 10.55.110 Requirements not Cumulative

The requirements of SMC 7.02.070, obstruction of streets, and obstruction of sidewalks, shall not apply to a parklet or streaterly validly licensed under this chapter, except as herein provided.

Section 10.55.120 Regulations and Design Guidelines

No later than 120 days after the effective date of this section, the city engineer shall publish regulations (including a reasonable license application fee) and design guidelines for parklets and streateries licensed under this chapter.

Section 2. That there is enacted a new section 08.02.0235 of the Spokane Municipal Code to read as follows:

Section 08.02.0235 Parklets and Streateries

- A. An annual license fee of one hundred dollars (\$100) shall be paid for operation of a parklet or streaterly, as the same are defined in SMC 10.55, as long as the original approved site plan is implemented. Modifications of an approved parklet or streaterly license application which extend beyond the original approved plan shall require a new review and a review fee of two hundred fifty dollars (\$250).
- B. The application fee for a license for a new parklet or streaterly is fifty dollars (\$50).
- C. The review fee for an application for a new parklet or streaterly license is three hundred dollars (\$300).
- D. License applicants shall post a refundable cash bond to secure removal of the parklet or streaterly, at the time of application, in the amount of one thousand dollars (\$1,000).
- E. Parking meter revenue loss mitigation.

1. Streatery license applications in locations requiring removal of parking meters shall be subject to the following fees:
 - a. 2-hour meter zone: \$2.09 per square foot per month
 - b. 4-hour and all-day meter zones: \$2.09 per square foot per month
 - c. Time-restricted free parking: \$1.05 per square foot per month
 - d. Meter removal and replacement fee: \$80.
2. Parklet license applications in locations requiring removal of parking meters shall be subject to the following fees:
 - a. 2-hour meter zone: \$1.05 per square foot per month
 - b. 4-hour and all-day meter zones: \$1.05 per square foot per month
 - c. Meter removal and replacement fee: \$80.

F. In addition to the annual fee, the city shall collect from the license applicant and remit to the state department of revenue the required state leasehold excise tax, as prescribed in chapter 82.29A, RCW.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date