

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING COUNTY CODE CHAPTER 28 SECTIONS 28-124 THROUGH 28-134, ENTITLED “USE OF COUNTY SIDEWALKS AND RIGHTS-OF-WAY FOR BUSINESS PURPOSES”

The Board of Supervisors of the County of Santa Barbara ordains as follows:

**SECTION 1: Ordinance Amendment.**

Chapter 28 of the Santa Barbara County Code Article X, entitled “Use of County Sidewalks, and Rights-of-Way for Business Purposes,” is hereby amended to read as follows:

**Article X. Use of County Sidewalks and Rights-of-Way for Business Purposes.**

**28-124 Definitions**

The following words and phrases, whenever used in this Article X, ~~whether capitalized or not~~, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) “Business ~~P~~urposes” means ~~use of County road right-of-way for conducting business as allowed in County Code Chapter 9—Bicycles, Skateboards, Scooters, and Shared Mobility Business Services or as allowed for Outdoor Business dining, as defined described~~ herein.
- (b) “Shared ~~M~~obility ~~B~~usiness” has the same meaning as defined in County Code section 9-1(~~g~~f).
- (c) “Outdoor ~~D~~ining Business” means the use of ~~a~~ County road ~~or sidewalk easement and/or county road~~ right-of-way for the ~~service sale or consumption~~ of food and/or beverages, ~~or for other retail activity, in conjunction with the operation of an adjacent business a food service establishment properly licensed, as applicable, for such service or activity, under as applicable law.~~
- (d) “Shared Mobility Device” or “SMD” has the same meaning as defined in County Code section 9-1(i).
- (e) “Parklet” shall mean a designated area constructed over the roadway used by the adjacent business for Outdoor Business, which may include a temporary, removable small seating or gathering area.

**28-125 Annual Encroachment Permit Required**

~~An Annual Business Roadway Encroachment Permit is required for any shared mobility business or outdoor business operating in the public road right-of-way. No shared mobility business or food service establishment shall conduct business purposes in the public right-of-way unless an annual business purposes encroachment permit has been issued to the establishment by the county to encroach in such a manner.~~ The Public Works Director may issue an Annual Business ~~Roadway Purposes~~ Encroachment Permit pursuant to the Director’s administrative regulations, ~~including any community-specific guidelines, subject to all applicable laws, rules and regulations.~~ The owner or operator of a shared mobility business or ~~service which includes SMDs~~ or outdoor business ~~dining~~ shall ~~conduct maintain and operate~~ such business ~~or service~~ in compliance with all provisions of their Annual Business ~~Roadway Purposes~~ Encroachment Permit, ~~this Article X~~, and the administrative regulations.

**28-126 Where Shared Mobility, Outdoor Business Dining in County Road Right-of-Way is Permitted**

- (a) ~~Shared mobility business or outdoor business Business purposes~~ shall not be permitted where, in the opinion of the Public Works Director, the speed, volume or nearness of vehicular traffic is not compatible with ~~use of the County right-of-way for business purposes these services~~, or if the Public Works Director deems the use to be incompatible with roadway operations, safety, or other public needs.
- (b) All outdoor ~~business dining~~ must be ~~conducted in an area~~ adjacent to and incidental to the operation of a ~~business food-service~~ establishment properly licensed, ~~as applicable~~, for such service or activity. ~~Dining A~~areas separated only by public right-of-way sidewalk remaining clear and dedicated for public use are considered adjacent for ~~purposes of~~ this section. Use of the sidewalk, ~~parklet~~, or public right-of-way for outdoor dining shall be confined to the actual sidewalk, ~~parklet~~, and public right-of-way frontage of ~~adjacent structure building~~ housing the ~~business restaurant or food-service~~ establishment.
- (c) ~~Business purposes~~ shall be permitted only where, in the opinion of the Public Works Director, the sidewalk or right of way is adequate to accommodate Americans with Disability Act (ADA) requirements, and wide enough to adequately accommodate the usual pedestrian traffic in the area and the operation of the proposed business. Permittee shall maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time, and comply with such conditions of their Annual Business Roadway Encroachment Permit as may be imposed by the Public Works Director. Restricting pedestrian flow and/or blocking pedestrian paths may result in revocation or suspension of the permit as set forth in Section 28-133.

**28-127 Outdoor Business - Parklets Sidewalk Required to Accommodate Pedestrian Traffic**

~~Business purposes shall be permitted only where, in the opinion of the public works director, the sidewalk or right of way is adequate to accommodate the American's with Disability Act requirements, wide enough to adequately accommodate the usual pedestrian traffic in the area and the operation of the proposed business. Business Purposes shall maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time, and comply with such conditions of their annual business purposes encroachment permit as may be imposed by the public works director.~~

- (a) An Annual Business Roadway Encroachment Permit shall be required for any outdoor business within a parklet, including, but not limited to, the placement of curb extension structures, barriers, chairs, tables, and umbrellas. A removable parklet structure providing a separation between parklet users and street traffic shall be required. Annual Business Roadway Encroachment Permit for parklets are revocable and subject to annual review and re-approval as provided in this Article X.
- (b) The following standards and conditions shall apply to all Parklets:
  - 1) Parklets may not remove parking spaces in Coastal Zone areas or communities where it conflicts with County policies or community plans.

- 2) Parklets and their use for business purposes must conform with all applicable laws, regulations, and County guidelines, including, but not limited to those of the County Departments of Planning and Development, County Fire, and Public Health, and the California Department of Alcoholic Beverage Control.
- 3) Parklets may not interfere with the safe and efficient operations of the transportation network for all modes and uses. Traffic barriers or setbacks may be required as determined by the Public Works Department.
- 4) Parklets must be portable and removable. Permittee must remove parklets when directed by the Department.
- 5) Parklets must be located on a public street with a posted speed limit of 30 miles per hour or less. An Applicant for an Annual Business Roadway Encroachment Permit for a Parklet must submit an engineering analysis and traffic plan from a licensed Civil or Traffic Engineer on streets with speed limits of 30 miles per hour. For roadways with speeds limits under 30 miles per hour, plans may be required at the discretion of the Public Works Department.
- 6) Parklets are only allowed directly adjacent to the business they serve and may not encroach beyond the Permittee's property frontage.
- 7) Parklets may not include walls over 48", permanent roof structures, or any screening that affects visibility or would require review by the Department of Building and Safety.
- 8) Parklets may not include utility installations such as electrical wiring, gas hookups, or features that would require building and safety review.

#### **28-128 Outdoor Business Dining - Alcoholic Beverage Regulation**

The service of alcoholic beverages shall be allowed only in compliance with all State and local laws and regulations. The service of alcoholic beverages shall be restricted solely to on-premise consumption by customers within the outdoor **business dining** area. Each of the following standards applies to outdoor **business dining** areas which provide alcoholic beverage service:

1. Any outdoor **business-dining** area where alcohol is allowed shall be immediately adjacent to and abutting an indoor restaurant which provides food and beverage service.
2. The outdoor **business-dining** area shall be clearly and physically separated from pedestrian traffic.
3. The operator shall post a written notice to customers that the drinking or carrying of an open container of alcohol is prohibited outside the outdoor **business-dining** area.
4. The outdoor **business-dining** purposes shall be duly licensed by the State Department of Alcoholic Beverage Control.

#### **28-129 Temporary Removal of Business Roadway Encroachments for Special Closures**

- (a) As a condition of any approved Business Roadway ~~Purposes Annual~~ Encroachment Permit, ~~is interruptible or terminable by the Public Works Director at any time.~~ The Public Works Director shall have the authority to temporarily prohibit business operations on the sidewalk or in the right-of-way at any time whether for convenience or because of anticipated or actual problems or conflicts in the use of the sidewalk area or right-of-way. Such problems and conflicts may arise from, but are not limited to: scheduled festivals and similar events; parades or marches; **necessary**

~~construction or maintenance repairs to the street or sidewalk~~; or from demonstrations or emergencies occurring in the area.

~~To the extent possible, the Annual Business Roadway Purposes Encroachment Permit holder shall be given prior written notice of any time period during which business operations in the right-of-way will be prohibited by the County.~~

- (b) Within twenty-four hours of receipt of written notice, the permittee shall cease all business operations and restore the public right-of-way to the condition existing prior to the placement of the facilities or to some other condition approved by the Public Works Director for a period of time as directed by the Public Works Director.
- (c) If the public right-of-way is not restored within twenty-four hours, or as agreed to by the County, the County may remove any and all facilities installed within the public right-of-way. Reimbursement to County for costs for said removal shall be the responsibility of the permittee.

### **28-130 Issuance of Annual Business ~~Roadway Purposes~~ Encroachment Permit**

- (a) The Public Works Director may adopt administrative regulations applicable to the issuance of an Annual Business ~~Roadway Purposes~~ Encroachment Permit. Such regulations ~~may~~, without limitation include the following:
  - 1) Prior to the issuance of the permit, the applicant shall sign an insurance and indemnification agreement provided by the department.
  - 2) ~~A requirement that~~ The applicant shall procure and maintain insurance against claims for injuries to persons or damages to property with the following minimum scope: ~~provide proof of insurance in the amount of \$1 million naming the County of Santa Barbara as additional insured and endorsed.~~
    - a. Commercial General Liability (CGL) insurance on an "occurrence" basis with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
    - b. The County of Santa Barbara shall be added as an additional insured on a separate endorsement.
  - 3) A requirement that the applicant conform to any adopted design guidelines, Community Plans, ~~meet minimum aesthetic~~ and safety standards for design, seating and parking.
  - 4) Such other conditions as may be necessary to protect public health and safety or to protect public improvements.
  - 5) Any requirement deemed necessary to guarantee that the applicant shall restore the appearance of the sidewalk or right-of-way on termination of use.
  - 6) Setback and clearance standards for all reasonable pedestrian uses of the sidewalk, as well as for unusual or occasional public uses that can be anticipated.
  - 7) Maintenance standards for the outdoor ~~business dining~~ area.
  - 8) A requirement that the applicant follow all County directives, including directives from the Sheriff, relative to business purposes on sidewalks or in the right-of-way.
  - 9) A limitation of fleet size for SMDs.
- (b) In addition to all other required submittals, applicants for an Annual Business Roadway Encroachment Permit must submit the following for review:
  - 1) A detailed site plan, drawn to scale, noting dimensions of the area proposed for parklet or other outdoor business use; identify proposed location, dimensions, number of parking stalls

- affected, accessible pedestrian path of travel, design features and construction materials. Plans shall identify distance to nearest crosswalk/intersection/driveway, location of any utilities that may be impacted, street furniture, and landscape features proposed.
- 2) Where vertical elements are proposed, application shall include drawings and calculations prepared by a licensed architect or engineer.
  - 3) If applicable, identify the proposed number and location of tables, chairs and other furnishings to be included in the dining area; the relationship of the outdoor area to the indoor area; and all sidewalk obstructions in the vicinity;
  - 4) A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, etc.;
  - 5) For Parklets, a description of any additional parking that will be provided;

### **28-131 Annual Business Roadway Purposes Encroachment Permit Fee**

- (a) An Annual Business Roadway Purposes Encroachment Permit shall require the payment of an annual fee. ~~The Such-a~~ fee shall be established by the Board of Supervisors by resolution, and may include a cost escalation factor. ~~The Such-a~~ fee shall be paid on an annual basis, prior to the issuance or renewal of an Annual Business Purposes Roadway Encroachment Permit.
- (b) For Parklets that encroach into parking spaces, initial permit fees will include the cost for the County to provide new offset parking in the vicinity of the Parklet.

### **28-132 Term, and Renewal, and Assignment**

- (a) The maximum term of an Annual Business Roadway Purposes Encroachment Permit is one year. Thereafter, the Public Works Director may extend the Annual Business Roadway Purposes Encroachment Permit for additional periods, each not to exceed one year, following review and approval of the operation. If the Public Works Director considers additional or revised conditions desirable, such new conditions may be imposed upon the extension, including the imposition of a current Annual Business Roadway Purposes Encroachment Permit renewal fee.
- (b) Annual Business Roadway Encroachment Permits are non-transferrable.

### **28-133 Revocation or Suspension of Permit**

- (a) The County of Santa Barbara retains the right to revoke or suspend an Annual Business Roadway Encroachment Permit for ~~the permit upon twenty-four hours written notice to the operator for~~ any cause, regardless of conformance with these provisions. Such revocation or suspension is at the sole discretion of the Public Works Director. Situations that may merit suspension or revocation include, but are not limited to:
  - ~~1) Emergencies, parades, necessary construction or maintenance, at the discretion of the Public Works Director.~~
  - 1) Suspension, revocation, or cancellation of any necessary permit(s) for the business operation.

- 2) Excessive noise (in excess of ~~65sixty-five~~ decibels), trash accumulation, neighborhood complaints, etc.
  - 3) Incorrect or inadequate insurance coverage
  - 4) Failure to comply with conditions of permit approval.
  - 5) Nuisances, blight or disruption of pedestrian and vehicle traffic flow caused by operation of the business on sidewalks or in the public right-of-way.
- (b) Within twenty-four hours of receipt of written notice of revocation or suspension, ~~regardless of any appeal of the action,~~ the ~~permittee operation~~ shall cease all business ~~operations purposes~~ and, ~~if applicable,~~ restore the ~~public right-of-way sidewalk~~ to the condition existing prior to the placement of the ~~outdoor dining~~ facilities or to some other condition ~~approved by acceptable to~~ the Public Works Director. ~~Failure to comply shall constitute a violation and be subject to penalty.~~
- (c) ~~If the public right-of-way is not restored within twenty-four hours, or as agreed to by the County, the County may remove any and all facilities installed within the public right-of-way. Reimbursement to County for costs for said removal shall be the responsibility of the permittee.~~

#### **28-134 Violations of Conditions - Penalty**

- (a) ~~Upon commencement of business purposes under an Annual Business Roadway Encroachment Permit, if any portion of a privilege authorized by this permit is utilized, the all permit, conditions immediately become effective and must be strictly complied with. The violation of any valid condition shall constitute a violation and shall be subject to the following same penalties as follows:~~
- 1) Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of ~~the this~~ permit, shall be guilty of an infraction and, upon conviction thereof, shall be punishable by (1) a fine not exceeding one hundred dollars for a first violation of conditions; ~~and~~ (2) a fine not exceeding two hundred dollars for a second violation of conditions within one year.; ~~and (3) revocation of permit for a third violation of conditions within one year.~~
  - 2) Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.
- (b) The remedies provided for herein shall be cumulative and not exclusive.

#### **SECTION 2: Parts Not Affected**

Those sections of Chapter 28 not set forth in this Ordinance shall remain in full force and effect.

#### **SECTION 3: Publication and Effective Date.**

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published

once, with the names of the members of the Board of Supervisors voting for and against the same in a newspaper of general circulation published in the County of Santa Barbara.

*(Signatures on following page.)*

**PASSED, APPROVED, AND ADOPTED** by the Board of Supervisors of the County Santa Barbara, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by the following vote:

**AYES:**

**NAYS:**

**ABSENT:**

**ABSTAIN:**

ATTEST:  
MONA MIYASATO  
COUNTY EXECUTIVE OFFICE  
CLERK OF THE BOARD

COUNTY OF SANTA BARBARA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Steve Lavagnino, Chair  
Board of Supervisors

APPROVED AS TO FORM:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel