

Parklets: Promoting Sustainable Community Development

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I. INTRODUCTION

Sustainable community development has long focused on strengthening communities by implementing social, economic, and environmental policies at the local level.¹ As Pennsylvania residents seek new, innovative ways to enjoy their neighborhoods, sustainable community development provides a wealth of opportunities to meet their needs. Communities that are developed in a sustainable manner are healthier, and have happier residents.² Sustainable communities provide a safe, enjoyable, and attractive environment, encourage community engagement, attract residents, and foster diversity and creativity among community members. Therefore, local policy makers should strive to develop their communities in a sustainable manner.

Throughout many communities across Pennsylvania, it is evident that the streets are not usable by all types of pedestrians. There are stretches of roads with no sidewalks, no pedestrian crossings, and no bicycle lanes. These street networks present a variety of problems. Pedestrian activity is discouraged—persons who would be inclined to walk or bike to their location, are unable to do so safely.³ Residents rely entirely on vehicular transport, which results in an increase in carbon emissions.⁴ Decreased accessibility for all pedestrians to use the roadways correlates with lower support or footfall for local businesses.⁵ These issues provide a wealth of

¹ Scottish Community Development Centre, *What is Community Development?*, <http://www.scdc.org.uk/who/what-is-community-development/> (last visited September 20, 2017).

² *Id.*

³ See *infra* notes and discussion, Section II.

⁴ See *infra* notes and discussion, Section II.

⁵ See *infra* notes and discussion, Section II.

opportunity for policy makers to engage in sustainable community development. Parklets give policy makers the opportunity to provide solutions for all of the above, and much more.⁶

Parklets are typically small, temporary platforms that take up two or more street-parking spaces.⁷ They convert those parking spaces into a type of mini-park that the public can use for recreational activities.⁸ Parklets may be installed on a temporary or permanent basis, depending on climate considerations, and the purpose for which the parklet is installed.⁹ Typically, businesses or other interested residents apply to install a parklet to either attract customers, or to create new uses for the space.¹⁰ Due to parklets' location, as an extension of sidewalks, they create more accessibility for all types of pedestrians.¹¹ Parklets can also decrease reliance on vehicular transportation, since residents would be inclined to walk to their locations, and enjoy the new comforts and beauty that Parklets can provide.¹² Further, parklets have been shown to attract customers to local businesses, due to their attractiveness and strategic locations.¹³ Many cities throughout the United States have implemented "Parklet Program[s]"¹⁴ in an effort to build sustainable community environments, and to solve problems like those discussed in Section II

⁶ SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 (SPRING 2015), http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

⁷ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

⁸ UCLA LUSKIN SCHOOL OF PUBLIC AFFAIRS, RECLAIMING THE RIGHT OF WAY: A TOOLKIT FOR CREATING AND IMPLEMENTING PARKLETS (September 2012), https://nacto.org/docs/usdg/reclaiming_the_right_of_way_brozen.pdf.

⁹ Permanent parklets have been installed outside of restaurants and stores to attract customers, whereas temporary parklets have been installed for community events. *See* SVR DESIGN, PARKLETS: TINY PARKS WITH BIG IMPACTS FOR CITY STREETS (December 21, 2012), https://nacto.org/docs/usdg/parklets_tiny_parks_with_big_impacts_for_city_streets_gould.pdf.

¹⁰ SVR DESIGN, PARKLETS: TINY PARKS WITH BIG IMPACTS FOR CITY STREETS (December 21, 2012), https://nacto.org/docs/usdg/parklets_tiny_parks_with_big_impacts_for_city_streets_gould.pdf.

¹¹ *See* notes and discussion, Section III.

¹² *See* notes and discussion, Section III.

¹³ *See* SAN FRANCISCO GREAT STREETS PROJECT, PARKLET IMPACT STUDY (2011)

https://nacto.org/docs/usdg/parklet_impact_study_sf_planning_dept.pdf; *See infra* notes and discussion, Section III and IV.

¹⁴ *See e.g.* OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

and III of this narrative. Cities such as San Francisco, Philadelphia, Sacramento, Fort Lauderdale, and Seattle, are just a few of the many cities that have been pioneers in the Parklet Program Movement.¹⁵ Parklet programs have been implemented by executive orders and by ordinances in many jurisdictions.¹⁶ The proposed ordinance seeks to aid in solving the problems herein discussed by providing a procedural framework that municipalities can use to create and implement their own Parklet programs.

The model ordinance supported by this narrative is meant to improve the quality of life of Pennsylvania's residents, and increase revenues for the municipalities therein. Specifically, the proposed ordinance for the parklet program would support the creation of wealth in the communities, provide a safe and attractive environment, encourage dialogue and engagement between residents, provide opportunities for people to enjoy the communities, and foster the creativity and diversity of the community members. Accordingly, this narrative will first discuss existing problems that could be fixed by the enactment of Parklet Programs. Then, it will address the inadequacy of the laws in existence in Pennsylvania in relation to fixing the problems that Parklet Programs address. The narrative will then transition to address the social, economic, and environmental benefits a Parklet Program could provide. Subsequently the narrative will

¹⁵ See SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf; OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf; CITY OF SACRAMENTO DEPARTMENT OF PUBLIC WORKS, CITY OF SACRAMENTO PARKLETS PROGRAM MANUAL (March 18, 2014), https://www.cityofsacramento.org/-/media/Corporate/Files/Public-Works/Forms/Parking/Parklets/Sacramento-Parklet-Program-Manual_3-18-2014_Final.pdf?la=en; CITY OF FORT LAUDERDALE DEPARTMENT OF SUSTAINABLE DEVELOPMENT, PARKLET PROGRAM APPLICATION, <http://gyr.fortlauderdale.gov/home/showdocument?id=3629> (last visited September 20, 2017); SEATTLE DEPARTMENT OF TRANSPORTATION, PARKLET HANDBOOK, <http://www.seattle.gov/transportation/docs/parklets/Parklet%20Handbook.pdf> (last visited September 20, 2017).

¹⁶ See e.g. CITY AND COUNTY OF SAN FRANCISCO AND SAN FRANCISCO PUBLIC WORKS, DPW ORDER NO: 183392, GUIDELINES FOR THE APPROVAL AND INSTALLATION OF TEMPORARY SIDEWALK EXTENSIONS (PARKLETS) FOR USE BY THE GENERAL PUBLIC AT APPROPRIATE LOCATIONS WITHIN PUBLIC RIGHTS-OF-WAY; FORT LAUDERDALE, FL. CODE OF ORDINANCES § 25A-185 (2017).

address the types of laws that jurisdictions have used to implement Parklet Programs, and their effectiveness. Finally, the narrative will address policy concerns that law makers must consider in creating and enacting an ordinance for Parklet Programs, and how these Parklets may be funded.

II. EXISTING PROBLEMS

Communities across Pennsylvania have road networks without sidewalks, bicycle lanes, cross works, and other accessibility features for pedestrians. These networks may not be viewed as a problem to community developers or policy makers at the outset. However, if developers or policy makers accept the assertion that sustainable community development leads to happier residents and attractive communities, then lack of accessibility becomes a problem. This lack of pedestrian access creates a heavy reliance on vehicular transport, which decreases residents' opportunities for exercise, and increases carbon emissions. Lack of accessibility, which increases reliance on motorized transport, leads to low levels of support for local businesses. These problems, along with the solutions that parklets can provide, will be discussed in turn below.

A. Incomplete Streets

One only has to step outside to notice that many streets aren't useable by all types of pedestrians. Streets that have sidewalks, may not have bicycle lanes. Some roadways have on-street parking, but inadequate sidewalk space. Other roadways have no sidewalks or bicycle lanes whatsoever. The Complete Street movement encourages city planners to build road networks that accommodate a range of road users instead of one or two types. Complete Street

principles, when applied, can increase the “health, safety, [and] economic viability” of cities.¹⁷ Sidewalks and walkways provide a myriad of benefits to residents including fewer accidents attributed to walking along roadways, and increasing the health of residents by encouraging walking instead of driving.¹⁸ Since parklets convert street side parking to a walking/sitting area, parklets can be used to create similar benefits. Parklets can provide a balance between the needs of on-foot pedestrians, those who ride bicycles, passengers on public transportation, and private car owners.¹⁹

B. Heavy Reliance on Motorized Transport

A major disadvantage of having streets without adequate room for biking or walking is that pedestrians are forced to rely on motorized transport. Resident’s health, sense of community, and the environment, all are adversely affected by heavy reliance on motor vehicles. Reliance on transportation by vehicles decreases the overall health of the community because residents will forego walking to destinations; it is an undisputed fact that walking, and exercise in general leads to healthier lifestyles. Heavy reliance on motorized transport may also diminishes residents’ sense of community, because driving presents no opportunities to talk to neighbors. It is far easier to have a conversation with a fellow resident on-foot, than while in a vehicle. Further, fewer carbon emissions result from walking or biking, than driving a motorized vehicle.²⁰ In this way the environment would benefit from encouraging residents to walk or bike, instead of

¹⁷ TOWN OF READING, PA, COMPLETE STREETS POLICY, <https://www.smartgrowthamerica.org/app/legacy/documents/cs/policy/cs-ma-reading-policy.pdf> (July 29, 2014).

¹⁸ U.S. Department of Transportation, *Safety Benefits of Walkways, Sidewalks, and Paved Shoulders*, https://safety.fhwa.dot.gov/ped_bike/tools_solve/walkways_trifold/walkways_trifold.pdf (last modified February 1, 2013).

¹⁹ SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

²⁰ See U.S. DEPARTMENT OF TRANSPORTATION, CASE NO. 15: THE ENVIRONMENTAL BENEFITS OF BICYCLING AND WALKING (January 1993), https://safety.fhwa.dot.gov/ped_bike/docs/case15.pdf.

driving. Community members may also be less likely to stop at local establishments if there is an inadequate walking space, even if that place is within walking distance.

C. Lack of Support for Local Businesses

Cities that have implemented complete streets policies have more adequate walking areas, and have reported a rise in footfall in their local businesses.²¹ In a case study centered on Washington D.C., researchers found that cities that are more walkable tend to attract more customers, and generate more sales locally.²² Therefore, when there are fewer accommodations for pedestrians, fewer customers are attracted to local businesses. When pedestrians are encouraged to walk by ensuring they have adequate room to do so, they feel safer and more comfortable walking to their desired destinations.

III. WHY PARKLET PROGRAM ORDINANCES ARE NECESSARY

Municipalities should consider implementing Parklet Program ordinances for many reasons. First, the three major issues identified in section two of this narrative can be addressed by implementing a Parklet Program. Second, there are no existing state or local laws that can adequately address the specific problems identified in section two of this narrative. Third, since parklets are sometimes permitted as a “pop-up” or temporary project, municipalities may want to implement a law to protect the citizens who participate in the project, and those who do not.

²¹ ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 56 (June 2016) <https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>; BROOKINGS, WALK THIS WAY: THE ECONOMIC PROMISE OF WALKABLE PLACES IN METROPOLITAN WASHINGTON, D.C. 9 (May 2012) <https://www.brookings.edu/wp-content/uploads/2016/06/25-walkable-places-leinberger.pdf>; SAN FRANCISCO GREAT STREETS PROJECT, PARKLET IMPACT STUDY (2011) https://nacto.org/docs/usdg/parklet_impact_study_sf_planning_dept.pdf.

²² BROOKINGS, WALK THIS WAY: THE ECONOMIC PROMISE OF WALKABLE PLACES IN METROPOLITAN WASHINGTON, D.C. 9 (May 2012) <https://www.brookings.edu/wp-content/uploads/2016/06/25-walkable-places-leinberger.pdf>.

A. Parklets Solve Existing Problems

1. Parklets Encourage All Pedestrians to Use Roadways

Parklets further the goals of the Complete Street movement.²³ Complete Streets envision road networks that facilitate safe usage for all residents in any given community.²⁴ The goals of this movement are to increase walkability, quality of life, and economic viability of communities.²⁵ Due to the broad range of uses a parklet can have, municipalities can easily use a parklet to further the above-mentioned goals. Parklets can be set up so that there are bike stands for residents who ride bicycles.²⁶ They can also be separated from vehicular traffic by placing a bicycle lane between the parklet and the driving lanes.²⁷ Parklets can also be outfitted with indigenous plants, art installations, and energy efficient lights to beautify the area. Some existing parklets are even equipped with workout equipment for residents to enjoy.²⁸ The sheer flexibility in the design and implementation of parklets can prove useful to any city seeking to ensure that all street users can get to their destinations safely, and comfortably. The social benefits of parklets are evident in this respect. Increasing accessibility of the road networks to all users encourages residents to socialize with each other.²⁹ Parklets are unique in this ability

²³ Parklet programs are often implemented as part of cities' complete streets policies. See MAYOR'S OFFICE OF TRANSPORTATION AND UTILITIES, PHILADELPHIA COMPLETE STREETS DESIGN HANDBOOK 87, http://www.philadelphiastreet.com/images/uploads/resource_library/cs-handbook.pdf.

²⁴ PHILADELPHIA COMPLETE STREETS EXECUTIVE ORDER, NO. 5-09 – ESTABLISHMENT OF A COMPLETE STREETS POLICY (2009) (available at http://www.phila.gov/ExecutiveOrders/Executive%20Orders/2009_EO05-09.pdf).

²⁵ *Id.*; See also *Benefits of Complete Streets*, SMART GROWTH AMERICA, <http://old.smartgrowthamerica.org/complete-streets/complete-streets-fundamentals/benefits-of-complete-streets/> (last visited November 18, 2017).

²⁶ See SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2, 15, 18 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

²⁷ *Id.* at 20.

²⁸ ARCHITIZER, *Not to be Outdone, LA Builds Parklets with Exercise Bikes*, <https://architizer.com/blog/inspiration/industry/downtown-los-angeles-parklets/> (last visited November 18, 2017).

²⁹ ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 48 (June 2016) <https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>

since they can provide a seating area, exercise area, or other type of gathering area where residents can feel free to engage in recreational activities and interact with each other.³⁰

2. Parklets Facilitate Decreased Reliance on Vehicular Transport

Parklets can decrease heavy reliance on motorized vehicles. When communities have recreational areas, such as parks, where residents can enjoy their community environments, residents are likely to visit those areas. If those recreational areas come in the form of mini parks or parklets, conveniently located on the side of the street, residents are probably more likely to gravitate towards them. The added benefit of having these mini parks or parklets on the street, is that residents will be encouraged to walk or take a bicycle to local destinations.³¹ The act of decreasing reliance on motorized transport is sometimes referred to as increasing a city's "walkability."³² Walkability has been described as a factor that surpasses "the good design of sidewalks and crossings which guarantee the 'ability to walk'," but "expresses a multifaceted measure of how friendly an area is to walking."³³ Academics in sustainability law take walkability into account when determining how attractive and sustainable a community is.³⁴ Walkability has been recognized by academics to be "a fundamental factor for achieving sustainable urban development."³⁵ Walkability certainly has social and environmental benefits for residents and their communities.

³⁰ *Id.* at 43-48.

³¹ See SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2, 5 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

³² See ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 18 (June 2016) <https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>.

³³ *Id.*

³⁴ *Id.*; See also BROOKINGS, WALK THIS WAY: THE ECONOMIC PROMISE OF WALKABLE PLACES IN METROPOLITAN WASHINGTON, D.C. 9 (May 2012) <https://www.brookings.edu/wp-content/uploads/2016/06/25-walkable-places-leinberger.pdf>.

³⁵ ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 18 (June 2016) <https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>.

One social benefit of increasing the walkability of a community is facilitation of socialization between residents. Increasing the interactions between residents can also promote inclusiveness.³⁶ Another social benefit comes from the physical act of walking or riding a bicycle. A community that encourages its residents to engage in more physical activity by building complete streets and adding parklets to those streets, should have healthier residents. If more residents choose to walk or use a bicycle, usage of motorized vehicles for travelling to local destinations should also decrease.

In terms of environmental benefits, where fewer motorized vehicles are used less frequently, carbon emissions should also decrease.³⁷ Further, parklets themselves provide an opportunity for cities to increase the number of trees and other plants in cities. Increasing vegetation in bustling cities is an important goal because trees and plants clean the air.³⁸ Decreased motorized vehicle traffic coupled with increase in vegetation can therefore greatly increase the air quality of a city. Increasing vegetation by planting trees around parklets also increases the permeability of the street surface, which aids water drainage. Cities with more vegetation are also more beautiful, which enhances the liveability and marketability of the area. Placing parklets in strategic locations also has the effect of optimizing land use.³⁹ This is true because “pedestrian-oriented spaces are comparatively more compact than motor vehicle infrastructure.”⁴⁰ These kinds of spaces increase the density capacity but do not have a negative impact on the quality of life for residents. The above-mentioned fixes—made available by the construction of parklets—also play into reduction of the noise levels in cities. Noise pollution is a serious issue in cities that

³⁶ *Id.* at 51.

³⁷ *Id.* at 72.

³⁸ *Id.* (stating “17 trees can absorb enough CO2 annually to offset 26,000 miles of driving.”).

³⁹ *Id.* at 71.

⁴⁰ ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 71 (June 2016)

<https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>.

have high levels of vehicular traffic; leaves of plants have been found to absorb the loud sounds, and it goes without saying that less reliance on vehicular transport leads to quieter streets.⁴¹

3. Parklets Facilitate Economic Growth

Parklets can also increase the economic vitality of a community. Increasing the walkability of communities relates to “[the] enhanced value of local services and the creation of more job opportunities.”⁴² As discussed above, parklets improve walkability by improving the attractiveness of the street area and creating a recreational space for residents. This increased walkability can encourage small local businesses to open in the area, just as increased reliance on motorized transport led to an increase in the creation of shopping malls. Communities would then flourish with a multitude of local start-up and employment opportunities. In fact, the presence of more store front businesses is one indicator of the economic vitality of a community.⁴³

It follows then, that tourism opportunities would also increase in communities that are walkable.⁴⁴ Residents would have the space and the desire to walk through the community, spend their money there, and spread the word about the attractiveness of the city. Walkable communities are more attractive communities that have happier residents; this entices other persons to live in the neighborhood and may increase property values.⁴⁵ Residents—especially the younger generation of home-seekers—have reportedly preferred to live in walkable cities due to their increased “safety, accessibility and liveability.”⁴⁶ Communities that flourish with

⁴¹ *Id.* at 73.

⁴² *Id.* at 55.

⁴³ *Id.* at 63.

⁴⁴ *Id.* at 59.

⁴⁵ ARUP, *CITIES ALIVE: TOWARDS A WALKING WORLD* 62 (June 2016)
<https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>.

⁴⁶ *Id.*

younger generations necessarily have a positive impact on property values. As a bonus, when people are encouraged to leave their cars at home, cities may save on road maintenance costs.⁴⁷

B. Existing Laws Cannot Adequately Address Existing Issues

Existing local and state laws in Pennsylvania fail to address the specific concerns addressed above, in ways that a parklet program ordinance could, because they lack specific procedures, definitions and enforcement to allow for efficient implementation of such a program. Philadelphia is the sole municipality in Pennsylvania to enact an ordinance implementing a parklet program.⁴⁸ Further, laws that could be seen to facilitate a parklet program, such as complete streets policies, are not nearly specific enough to address concerns that citizens may have.

Some may argue that complete street policies can address the problems discussed in Subsection A herein. The Borough of Elizabethtown's Complete Streets Policy's purpose is to "create an interconnected network of streets, sidewalks, trails and pathways that accommodate users of all ages and abilities within all modes of travel."⁴⁹ The policy goes on to list a set of goals that should be achieved by the consideration of the complete streets policy. Implementing policies that ensure all pedestrians have access to the roadways aids in the solution of the problems discussed earlier, however, mere policy documents cannot solve these issues. Parklets themselves are tailored to address issues of accessibility for all pedestrians, curbing reliance on

⁴⁷ *Id.* at 66.

⁴⁸ See PHILADELPHIA ZONING CODE § 11-613 (2014) (accessible at [http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa)).

⁴⁹ THE BOROUGH OF ELIZABETHTOWN, LANCASTER COUNTY, PA, RESOLUTION No. 2014-12, A RESOLUTION OF THE BOROUGH OF ELIZABETHTOWN, LANCASTER COUNTY, PENNSYLVANIA, ADOPTING A COMPLETE STREETS POLICY TO BETTER INTEGRATE PHYSICAL ACTIVITY INTO THE DAILY LIVES OF THOSE WHO LIVE IN AND VISIT THE BOROUGH OF ELIZABETHTOWN THROUGH AN INCREASED EMPHASIS ON VARIOUS ACTIVE TRANSPORTATION MODES WHICH WILL ULTIMATELY CONTRIBUTE TO IMPROVED HEALTH, REDUCED TRAFFIC CONGESTION WHICH WILL IMPROVE AIR QUALITY, REDUCE HARMFUL ENVIRONMENTAL IMPACTS AND CREATE AN ECONOMICALLY VIBRANT TWENTY-FIRST CENTURY COMMUNITY.

motorized vehicles, and increasing the economic vitality of communities. In order to facilitate effective use of parklets, they should be implemented with separate regulations or laws, for the safety of the public.

IV. JURISDICTIONS THAT HAVE ADDRESSED EXISTING ISSUES BY IMPLEMENTING PARKLET PROGRAMS

Cities all over the world have adopted parklet programs.⁵⁰ San Francisco is the first recorded city in the United States to use the term “parklet” when it converted street-side parking into mini-parks for recreational activities.⁵¹ Shortly thereafter, other cities across the United States adopted parklet programs. Cities have generally implemented parklet programs in three different ways, (1) by ordinance;⁵² (2) by executive order;⁵³ and (3) by regulatory code.⁵⁴

A. Types of Laws Used to Enact Parklet Programs

1. Ordinances

Ordinances from the cities of Richmond and Fort Lauderdale were examined to determine what considerations, and common themes law makers used to implement parklet programs in

⁵⁰ Claire Martin, *When the Parking Spot Becomes a Park*, N.Y. TIMES (Jan. 10, 2005), <https://www.nytimes.com/2015/01/11/business/when-the-parking-space-becomes-a-park.html?mcubz=0> (stating “In the last couple of years, at least 72 more parklets have materialized worldwide in places like Philadelphia, New Orleans, Seattle, Chicago, Mexico City [,] and Auckland”).

⁵¹ UCLA LUSKIN SCHOOL OF PUBLIC AFFAIRS, RECLAIMING THE RIGHT OF WAY: A TOOLKIT FOR CREATING AND IMPLEMENTING PARKLETS 5 (September 2012), https://nacto.org/docs/usdg/reclaiming_the_right_of_way_brozen.pdf.

⁵² See e.g. CITY OF RICHMOND, VA., CODE, Ch. 24, art. II, div.9 §§ 24-251 – 24-258 (Feb. 22, 2016) (accessible at <https://richmondva.legistar.com/LegislationDetail.aspx?ID=2566482&GUID=EDD97376-962A-4A45-B09B-6B5A16B03791>).

⁵³ See e.g. CITY AND COUNTY OF SAN FRANCISCO AND SAN FRANCISCO PUBLIC WORKS, DPW ORDER NO: 183392, GUIDELINES FOR THE APPROVAL AND INSTALLATION OF TEMPORARY SIDEWALK EXTENSIONS (PARKLETS) FOR USE BY THE GENERAL PUBLIC AT APPROPRIATE LOCATIONS WITHIN PUBLIC RIGHTS-OF-WAY.

⁵⁴ See e.g. PHILADELPHIA ZONING CODE § 11-613 (2014) (accessible at [http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa)); See also PHILADELPHIA DEPARTMENT OF STREETS, REGULATIONS GOVERNING PEDESTRIAN ENHANCEMENTS PURSUANT TO SECTION 11-613 OF THE PHILADELPHIA CODE (October 1, 2014) (accessible at <http://regulations.phila-records.com/pdfs/Street%20Dept.%20Regs.%201-16-15.pdf>).

those cities. In both ordinances, parklets were described as “pedestrian enhancements.”⁵⁵ Generally, both ordinances set forth the procedure for obtaining a pedestrian enhancement permit, regulates how parklets must be maintained and operated, sets forth the fees to be paid for permits, and includes penalties for violations of the permit.⁵⁶ In this way the ordinance ensures that parklets can be used by all pedestrians without risking any harmful effects to the public. In addition, both cities have published parklet manuals that breakdown what is required of each applicant by using simple language, and drawings of specifications.⁵⁷

2. Executive Orders

San Francisco’s parklet program was enacted by an executive order issued by their mayor, instead of an ordinance.⁵⁸ This particular executive order has similarities to the ordinances discussed above, in that it lays out the steps that must be taken to obtain a permit. However, it does not address how the parklet is to be maintained, the fees to be paid for the permits, or any penalties for violation of the permit. Instead of enacting an ordinance that addresses these concerns, the City of Francisco has published a manual that covers these aspects in great detail,

⁵⁵ CITY OF RICHMOND, VA., CODE, Ch. 24, art. II, div.9 §§ 24-251 – 24-258 (Feb. 22, 2016) (accessible at <https://richmondva.legistar.com/LegislationDetail.aspx?ID=2566482&GUID=EDD97376-962A-4A45-B09B-6B5A16B03791>) (defining a pedestrian enhancement as “either a bike corral or parklet.”).

⁵⁶ *Id.*

⁵⁷ See CITY OF FORT LAUDERDALE DEPARTMENT OF SUSTAINABLE DEVELOPMENT, PARKLET PROGRAM APPLICATION, <http://gyr.fortlauderdale.gov/home/showdocument?id=3629> (last visited September 20, 2017); CITY OF RICHMOND’S DEPARTMENTS OF PLANNING & DEVELOPMENT, PUBLIC WORKS & PUBLIC UTILITIES, PARKLET DESIGN GUIDELINES (June 2016), http://www.richmondgov.com/PlanningAndDevelopmentReview/documents/Parklet_Design_Guideline_Richmond_VA_8-2016.pdf.

⁵⁸ CITY AND COUNTY OF SAN FRANCISCO AND SAN FRANCISCO PUBLIC WORKS, DPW ORDER NO: 183392, GUIDELINES FOR THE APPROVAL AND INSTALLATION OF TEMPORARY SIDEWALK EXTENSIONS (PARKLETS) FOR USE BY THE GENERAL PUBLIC AT APPROPRIATE LOCATIONS WITHIN PUBLIC RIGHTS-OF-WAY.

and much like the manuals from Richmond and Fort Lauderdale, breaks down the steps for application in a simple format, complete with specifications for the design of the parklets.⁵⁹

3. Regulatory Code

Philadelphia implemented its parklet program by amending their zoning code to account for pedestrian enhancements.⁶⁰ Section 11-613 of the Philadelphia Zoning Code sets out application, safety, maintenance, and removal requirements for pedestrian enhancements in general, which includes parklets. Since the code section applies to three different types of pedestrian enhancements, the code does not go into as much detail as an ordinance focusing solely on a parklet program could. To remedy this, Philadelphia's Department of Streets issued a regulation which includes details concerning how to apply for, maintain, and remove a parklet.⁶¹ In conjunction with this regulation, the Office of Transportation & Infrastructure Systems of Philadelphia has published a manual that uses diagrams, and step by step instructions to guide applicants through the permit process.⁶²

B. Effectiveness of Existing Parklet Program Laws

Since the parklet program movement is relatively new, impact studies are not readily available. From the research done, San Francisco seems to be the only city that has done an

⁵⁹ SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

⁶⁰ PHILADELPHIA ZONING CODE § 11-613 (2014) (accessible at [http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://library.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title14zoningandplanning?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa)) (including pedestrian plazas, parklets, and bike corrals within the definition of pedestrian enhancement).

⁶¹ PHILADELPHIA DEPARTMENT OF STREETS, REGULATIONS GOVERNING PEDESTRIAN ENHANCEMENTS PURSUANT TO SECTION 11-613 OF THE PHILADELPHIA CODE (October 1, 2014) (accessible at <http://regulations.phila-records.com/pdfs/Street%20Dept.%20Regs.%201-16-15.pdf>).

⁶² OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

impact study on whether their parklet program has solved the problems discussed in section three of this narrative, or shows signs of doing so.⁶³

The San Francisco Great Streets Parklet Impact Study is an independent study done to determine “[t]he influence of parklets on pedestrian traffic, street life, and nearby businesses” in San Francisco.⁶⁴ It measured pedestrian footfall, surveyed pedestrians and businesses, and measured stationary activity at three locations in San Francisco, before and after each parklet was installed.⁶⁵ At one of the three locations, footfall increased forty-four percent; from 304 pedestrians per hour to 438 pedestrians per hour, after parklet installation.⁶⁶ The researchers also noticed a significant increase in stationary activity performed at the parklet locations.⁶⁷ More individuals evidently rode their bikes, as there was an increase in the number of bicycles parked at each location.⁶⁸ Seven businesses in those areas were also surveyed in that period to determine if they received more customers, had an increase in sales, or experienced a decrease in customer levels.⁶⁹ Two of the seven businesses reported that more of their customers came to their establishments on foot and by bicycle, rather than by motorized vehicle.⁷⁰ One business reported an increase in business and customer footfall.⁷¹ Five of the businesses reported that their customer levels had not changed.⁷² Lastly, and most importantly, none of the businesses

⁶³ See SAN FRANCISCO GREAT STREETS PROJECT, PARKLET IMPACT STUDY (2011) https://nacto.org/docs/usdg/parklet_impact_study_sf_planning_dept.pdf.

⁶⁴ *Id.* at 2.

⁶⁵ *Id.* at 1.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ SAN FRANCISCO GREAT STREETS PROJECT, PARKLET IMPACT STUDY 1 (2011) https://nacto.org/docs/usdg/parklet_impact_study_sf_planning_dept.pdf.

⁶⁹ *Id.*

⁷⁰ *Id.* at 11.

⁷¹ *Id.*

⁷² *Id.*

reported a decrease in business, and had no concerns about the loss of parking or any other impact on their business.⁷³

V. KEY POLICY & FUNDING CONCERNS LAW MAKERS MUST ADDRESS IN THE IMPLEMENTATION OF PARKLET PROGRAM ORDINANCES

A. Policy Concerns to be Addressed

Jurisdictions that have implemented parklet programs, have typically instituted a permitting process that address certain policy concerns. There are three general policy concerns that are addressed in these permitting procedures. Those three concerns are: (1) Site selection and community support; (2) Design, safety, and accessibility; and (3) Maintenance and insurance. Each issue will be discussed in turn.

1. Site Selection and Community Support

Site Selection correlates with safety concerns for parklets, since parklets replace multiple street parking spots. Accordingly, cities have required that parklets placed on streets with posted speed limits of twenty-five miles per hour or less.⁷⁴ Parklets should not be placed on the corners of streets, since that could be extremely hazardous.⁷⁵ Some cities have suggested that parklets be placed at least one parking spot away from corners or intersections.⁷⁶ Utilities pose another issue for parklet owners. Utility companies must be able to access utilities both above and below the

⁷³ *Id.*

⁷⁴ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION 3 (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

⁷⁵ SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2, 18 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

⁷⁶ *Id.*

ground; therefore, parklets need to be constructed so that utility companies can access storm drains, fire hydrants, manhole covers and other utility access points.⁷⁷

The permitting process must have provisions to ensure that applicants obtain community support from “property owners in interest” in accordance with Section 1721 of Pennsylvania’s Municipal Streets and Highways Statute.⁷⁸ Nearby business and homeowners should be contacted and given a say as to the placement of a parklet close to their property. Additionally, a public notice of application should be made available to all members of the public. The public should also be given the opportunity to object, and to attend a public hearing to voice any concerns they may have.

2. Design, Safety, and Accessibility

Parklet design should indicate that the parklet is a public area, therefore no advertising should be permitted at the site. Parklets should not impede the drainage on site; owners of parklets should be cognizant of debris build up. Since parklets are meant to be tools in the sustainable community development initiative, they should also be built with sustainable construction materials. Permittees should consider outfitting parklets with permeable pavers or pavement, which will aid with storm-water runoff. One should also consider planting plants, herbs, and trees that are indigenous to the municipality or state the parklet is placed in. Due to the parklet’s location between the street and the sidewalk, safety is a paramount concern that

⁷⁷ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION 3 (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

⁷⁸ 53 Pa. Cons. Stat. § 1721 stating:

[e]very municipal corporation shall also have power, upon the petition of a majority of property owners in interest and number abutting the line of the proposed improvement, to be verified by affidavit of one or more parties to said petition (a majority in interest of owners of undivided interests in any piece of property to be deemed and treated as one person for the purposes of petition), to grade, pave, curb, macadamize, and otherwise improve any public street or public alley, or part thereof, within its corporate limits, or which they may be, in whole or in part, boundaries thereof.

lawmakers must address. Strategies that other cities have used to ensure that parklets stay safe are: buffers, extended sidewalks, and ensuring that pedestrians can see the street from the parklet and motorists can see the residents in the parklet.⁷⁹ On the point of accessibility, it is important to ensure that all pedestrians can, and will be inclined to, enjoy the parklets. To ensure that parklets remain attractive and accessible, law makers should ensure that there is proper lighting, bicycle parking, entries that are accessible and comfortable for those in wheelchairs, and facilities for emergency situations.

3. Maintenance & Insurance

The authority behind the parklet program should ensure that parklets are maintained pursuant to strict guidelines. It may help to impose harsh fines for parklets that are found to be out of compliance with any regulation or law that implements the parklet program. To ensure that the municipality will not be liable for bodily, property, or pecuniary damage to residents, parklet owners should also be required to maintain insurance.

B. Funding for Parklets

Since parklets are typically privately owned, permittees bear the full cost of maintenance and operation of parklets. There is also a cost benefit to municipalities, since permittees are charged application fees, and other fees for each phase in the permitting process. To stimulate growth for the popularity of parklet programs, policy makers may want to think of partnering with businesses that are interested in aiding sustainable community development projects, and encouraging those businesses to price match applicants who seek to build parklets. Fees collected from violation of parklet laws, and application fees, can be funneled into a special

⁷⁹ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION 4 (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

budget for either, (1) other municipal sustainable community development projects; or (2) maintenance of the parklet program.

VI. CONCLUSION

Sustainable community development should be viewed as a promising solution to issues that municipal policy makers may face in the governance and maintenance of their communities. Movements such as the Complete Streets Policy and the Parklet Program make it simpler to put thoughts and lofty goals into concrete results. Lawmakers and residents alike can only benefit from using tools such as parklets to beautify their cities, enhance the quality of life, encourage social interaction, and increase economic vitality. Parklets are a simple—and surprisingly affordable—option for law makers to consider when attempting to achieve sustainability in their communities.

Proposed Model Ordinance for Parklets

Athanasia Georgakopoulos and Jo-Anne Thompson

_____ MUNICIPALITY

_____ COUNTY, PENNSYLVANIA

ORDINANCE No. _____ - _____

AN ORDINANCE AMENDING _____’S MUNICIPAL ZONING CODE TO PROVIDE FOR THE USE OF PARKLETS IN ALL DESIGNATED ZONING DISTRICTS AS A PRINCIPAL OR ACCESSORY USE, SUBJECT TO THE SPECIFIED REQUIREMENTS HEREIN.

WHEREAS, _____ Municipality Board of Commissioners/Council, of _____ County, Pennsylvania hereby finds that the creation and installation of Parklets for use by the general public serve numerous purposes.⁸⁰

WHEREAS, parklets must be subject to certain regulations to ensure public health, welfare, and safety;⁸¹

WHEREAS, parklets provide economic, social and environmental solutions through sustainable community development;⁸²

⁸⁰ Neha Bhatt and Chelsea Hogan, Smart Growth America, *Parklets* http://www.completethestreets.net/documents/Parklets_SF_MIA_Ordinance.pdf (last visited October 27, 2017).

⁸¹ *Id.*

⁸² Scottish Community Development Centre, *What is Community Development?*, <http://www.scdc.org.uk/who/what-is-community-development/> (last visited September 20, 2017).

WHEREAS, parklets promote sustainable communities through encouraging pedestrians to use roadways and by increasing quality of life and economic viability of communities;

WHEREAS, parklets decrease reliance on vehicular transport by implementing recreational areas on the side of streets to increase walkability⁸³ and promote social interaction among pedestrians,⁸⁴ physical activity and alternative methods of transportation; and

WHEREAS, parklets facilitate economic growth through tourism initiatives,⁸⁵ creation of store front businesses in areas where Parklets are present⁸⁶, and increase residential property values within the community where Parklets are present.⁸⁷

NOW, THEREFORE, be it enacted and ordained by the _____ Municipality Board of Commissioners/Council, _____ County of Pennsylvania:

The _____ code is amended by adding the following chapter to read:

Chapter 1

⁸³ *Id.*

⁸⁴ ARUP, CITIES ALIVE: TOWARDS A WALKING WORLD 51 (June 2016)
<https://www.arup.com/publications/research/section/cities-alive-towards-a-walking-world>.

⁸⁵ *Id.* at 59.

⁸⁶ *Id.* at 63.

⁸⁷ *Id.* at 62.

Preliminary Provisions

Section 1.1. Short Title.

This ordinance shall be known as the Municipality Parklet Ordinance.

Section 1.2. Legal Authority

The municipality shall have the authority to enact this Ordinance pursuant to 8 Pa.C.S. § 2701.

Section 1.3. Repeals.

All other ordinances and parts of ordinances are repealed insofar as they are inconsistent with this chapter.⁸⁸

Section 1.4. Severability.⁸⁹

The provisions of this ordinance are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 1.5. Effective Date.

This ordinance shall become effective upon enactment.

ORDAINED AND ENACTED as an Ordinance this _____ day of _____, 2017.

Section 1.6. Definitions.

⁸⁸ § 19.61. General repeal., 101 PA ADC §19.61.

⁸⁹ 53 PA. STAT. § 18200.3106 (2017).

The following words and phrases when used in this ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:⁹⁰

“Applicant.” A person, group of persons, business, or organization seeking an action or approval under the provisions of this ordinance. Included within this definition are: (i) the owner or operator of the qualifying business and (ii) the fee simple owner of the real property upon which the qualifying business is situated.⁹¹

“Application.” A document that will be submitted to a municipality to begin the Permitting process.

Department.” The department the municipality chooses to implement the ordinance and regulate the parklet program.

“Parklet.” A small public gathering space, occupying one or more parking stall(s) on a public street, and treated in all respects as a public sidewalk, but the facilities of which are privately owned and maintained.⁹² Parklet Improvements are included within the definition of Parklets, where this ordinance lays out requirements for maintenance, operation, repair, and removal of Parklets.

“Parklet Improvements.” Improvements identified on the approved parklet site plan, which may include, parklet platforms, tables, chairs, umbrellas, accessory equipment, and any other improvements not listed.⁹³

⁹⁰ COMMUNITY GARDEN MODEL ORDINANCE, Heather Shoemaker and Daniel Schramm, (accessible at <https://widenerenvironment.files.wordpress.com/2015/12/commuity-gardens.pdf>.)

⁹¹ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-183 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

⁹² OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiestreets.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

⁹³ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-183 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

“Permit.” Written permission issued for the construction of a parklet.

“Permittee.” A person issued the Permit for the construction of the parklet.

“Municipality.” A city, town, village, or borough within Pennsylvania that adopts this Ordinance.

“Tax clearance.” A tax account in good standing with the municipality.

Section 1.7. Amendments.

The following provisions within the Zoning Code of _____, within _____ County, Pennsylvania are hereby amended to include Parklets, so long as such amendment is consistent with the comprehensive plan of the municipality.⁹⁴

Chapter 2

Permitting Process

Section 2.1. Application; zoning.

(a) Application.

- (1) An applicant must complete and submit a parklet permit application provided by the department and pay the application fee.
- (2) A parklet permit application shall include the following:
 - (i) applicant’s name and address;⁹⁵

⁹⁴ AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, AT CHAPTER 78, STREETS, SIDEWALKS AND PUBLIC PLACES, CREATING ARTICLE XVIII: PARKLETS, TO ESTABLISH REGULATIONS, STANDARDS, AND GUIDELINES FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF PARKLETS WITHIN THE DOWNTOWN MASTER PLAN AND NORTHWOOD MIXED USE VILLAGE; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES, ORDINANCE NO. 4667-16, <http://wpb.org/getmedia/2f61446f-ab10-4949-975b-8d8c13171d0b/ACM21211>.

- (ii) a copy of a current business tax receipt for the qualifying business
- (iii) a copy of the valid certificate of occupancy for the qualify business;
- (iv) a copy of applicant's current liability insurance for the qualifying business;
- (v) parklet location information including the following:
 - (A) the proposed streets where the Parklet will be located;
 - and
 - (B) the addresses of the property immediately in front of, or on the same block face as the proposed parklet; and
- (vi) a site plan showing the location and dimensions of the Parklet and other objects in the immediate area. The diagram shall include the following:
 - (A) the names, addresses and types of businesses located immediately adjacent and within ____ feet of the applicant's place of business;
 - (B) the direction of traffic;
 - (C) the existing street and sidewalk environment within 100 feet of the proposed Parklet including, but not limited to:
 - (I) posted speed limit signs;
 - (II) property lines;

⁹⁵ CITY OF RICHMOND PARKLETS APPLICATION FORM (accessible at <http://www.richmondgov.com/PlanningAndDevelopmentReview/documents/ParkletApplicationForm.pdf>.)

- (III) sidewalk width;
- (IV) parking spaces with dimensions;
- (V) parking meters;
- (VI) utility covers;
- (VII) poles;
- (VIII) fire hydrants;
- (IX) streetlights;
- (X) bike racks;
- (XI) trees;
- (XII) sidewalk furniture;
- (XIII) curb cuts;
- (XIV) driveways; and
- (XV) bike lanes or auto traffic lanes.⁹⁶

(D) existing parking regulations, including, but not limited

to:

- (I) handicap parking;
- (II) loading zones; and
- (III) metered parking; and⁹⁷

(E) the length of the applicant's street frontage;⁹⁸ and

(F) proposed parklet improvements, and their locations on
the parklet

⁹⁶ CITY OF BELLINGHAM, WASHINGTON, PARKLET APPLICATION PACKET,
<https://www.cob.org/documents/planning/applications-forms/misc-department-forms/Parklet-application.pdf>.

⁹⁷ *Id.*

⁹⁸ *Id.*

- (vii) photographs from different angles along the prospective sidewalk and/or street where the parklet is to be installed;⁹⁹
- (viii) a drawing with a scale of 2" = 1'-0";
- (ix) a project description explaining applicant's purpose of the proposed parklet;¹⁰⁰ and
- (x) letters of support from property owners abutting the parklet. ¹⁰¹

(b) Approval Process

- (1) The department shall review each application and determine whether an application shall be approved or denied.
- (2) Approval shall only be granted to an applicant who complies the requirements of all sections.
- (3) Upon approval and proof of insurance, the application shall constitute the permit.

(c) **Zoning.** Parklet applications shall be placed in accordance with the municipality's zoning ordinance.

Section 2.2. Design restrictions.¹⁰²

(a) Parklet platform.

- (1) **Threshold.** Where a parklet fronts existing driveways or curb ramps, the driveways or curb ramps shall be temporarily levelled during installation of a parklet.

⁹⁹ CITY OF RICHMOND PARKLETS APPLICATION FORM (accessible at <http://www.richmondgov.com/PlanningAndDevelopmentReview/documents/ParkletApplicationForm.pdf>.)

¹⁰⁰ *Id.*

¹⁰¹ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf

¹⁰² SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 34(Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

- (2) **Bolting.** Bolting into the street or penetrating the surface of the road in any way is prohibited. A parklet may be bolted to existing curbs, if the permittee agrees to, and restores the curb after removal.
- (3) **Platform surface.** The top of a parklet platform must be the same level as the sidewalk.
- (4) **Concrete.** If a concrete base is used for a parklet deck, the concrete shall not be poured directly on the road surface. To facilitate easy removal of the parklet, the concrete floor shall not include structural rebar and must weigh less than 200 lbs. per sq. ft.
- (5) **Surface materials.** Loose particles, such as sand or loose stone, are not permitted on a parklet.
- (6) **Drainage.** A parklet must not impede the flow of curbside drainage. Permittees must therefore cover openings at either end with screens to prevent debris buildup beneath the deck and in the gutter.

(b) **Parklet enclosure.**

- (1) **Visibility.** A parklet shall be designed in a manner where it is visible to all pedestrians on either side of the street.
- (2) **Overhead elements.** Overhead elements are not permitted.

(c) **Parklet improvements.**

- (1) **Accessibility.** A permittee shall make a parklet accessible to all pedestrians in accordance with any state, local and federal law.

- (2) **Moveable elements.** If a permittee is a business, and tables, chairs, and other moveable elements are placed on the parklet, such moveable elements shall be different than the furniture used inside, or outside, a permittee's business.
- (3) **Plants.** A permittee shall include plants as part of the design, to increase biodiversity.
- (4) **Lighting.** A parklet shall include lighting elements. Consider solar-powered lighting.
- (5) **Bicycle parking.** Parking for bicycles shall be located on a parklet platform or immediately adjacent to a parklet.

(d) **Accessibility design.**

- (1) **Accessible path of travel.** At least one accessible route must connect the sidewalk to the parklet entrance, wheelchair turning space, and wheelchair resting space.
- (2) **Wheelchair turning space.** Parklet designs must include a wheelchair turning space that allows for wheelchair users to make a 360-degree turn. The area must be located completely within the parklet.
- (3) **Wheelchair resting space.** Parklet designs must include a wheelchair resting space that is 30 by 48 in. This space may overlap the wheelchair turning space by 24 in. at the maximum.

Section 2.3. Permits and associated fees.

- (a) **General rule.** A permit for a parklet shall be issued in accordance with this section.
- (b) **Issuance of permits**

(1) Parklet permits shall only be issued wherein the permittee's business is located; and

(2) Upon approval by the department.¹⁰³

(c) **Permit fees.** The application fee and annual permit fee for a parklet shall be determined by the department.¹⁰⁴

(d) **Revenue loss mitigation.** To compensate the municipality for the loss of parking revenues resulting from the removal of parking meters and parking spaces, a permittee shall be subject to the following fees:¹⁰⁵

(1) \$___ per square foot per month for a ___-hour meter zones;¹⁰⁶

(2) \$___ per square foot per month for a ___-hour and all day meter zones;¹⁰⁷

(3) \$___ per square foot per month for time-restricted free parking; and¹⁰⁸

(4) \$___ for meter removal and replacement fee.¹⁰⁹

Chapter 3

Operation and Maintenance

Section 3.1. Parklet criteria; operation.

¹⁰³ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-184 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

¹⁰⁴ *Id.*

¹⁰⁵ CITY OF SPOKANE, WASHINGTON, DRAFT PARKLET ORDINANCE (accessible at <https://static.spokanecity.org/documents/projects/Parklets/draft-Parklet-and-streatery-Permit-ordinance-2017-08-29.pdf>.)

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

(a) Generally.

- (1) A permittee shall install and maintain the parklet pursuant to municipal, state, and federal laws, including, but not limited to, the requirements set forth in this ordinance.¹¹⁰

(b) Maintenance.

- (1) A permittee shall maintain the parklet in a neat and orderly appearance at all times, and the area shall be cleared of all debris on a periodic basis throughout the business day.
- (2) Parklet improvements shall be maintained in a clean and attractive appearance.
- (3) Parklet improvements shall be of a quality, design and lasting materials, and workmanship both to ensure the safety and convenience of the users and to be compatible with the uses in the immediate vicinity of the parklet.¹¹¹
- (4) Permittee shall preserve and protect all existing trees and plantings in the public right-of-way within the immediate vicinity of the parklet.¹¹²
- (5) Permittee shall be required to replace or mitigate entirely at permittee's expense, any damage to the public right-of-way or private property as a result

¹¹⁰ CITY OF RICHMOND, VA., CODE, Ch. 24, art. II, div.9 §§ 24-251 – 24-258 (Feb. 22, 2016) (accessible at <https://richmondva.legistar.com/LegislationDetail.aspx?ID=2566482&GUID=EDD97376-962A-4A45-B09B-6B5A16B03791>).

¹¹¹ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

¹¹² *Id.*

of the parklet construction, installation, placement, operation, maintenance or removal.¹¹³

(6) The municipality may require a permittee to provide additional services to maintain the parklet platform, including pest abatement service and clearing of storm drainage.

(7) No portion of any object placed within the parklet boundary shall extend into the adjacent pedestrian sidewalk.

(c) Operation.

(1) A parklet shall be open to the public at large.

(2) Amplified or non-amplified music may be permitted within the parklet area, upon recommendation of the department and subject to the approval of the city manager, or his designee, as to the hours at which the music may be played, the volume settings, placement of speakers and any other facet of the projection of the music.¹¹⁴

(3) The serving and consumption of alcoholic beverages as part of the operation of the project shall be permitted subject to regulations of governmental entities having jurisdiction over such activities.¹¹⁵

(4) No advertising signs or business identification signs shall be permitted within the parklet area.¹¹⁶

¹¹³ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE.)

Section 3.2. Title; as-is condition of parklet location.¹¹⁷

(a) Title.

- (1) The location of a parklet must remain a public right-of-way. No legal title or any other interest in real estate shall be deemed or construed to have been created by anything contained in this ordinance.

(b) As-is condition of parklet location.

- (1) Permittee acknowledges and agrees that the permit, will be issued for a location that shall be accepted in its “AS IS, WHERE-IS, AND WITH ALL FAULTS” condition, including all defects known or unknown.
- (2) The municipality shall make no representation or warranty, express or implied, as to:
 - (i) any encumbrances, restrictions and conditions which may affect the location; and
 - (ii) the nature or condition of the location for installation and operation of the parklet.
- (3) Permittee relies on independent investigation of the condition of the location before applying for a permit.

Section 3.3. Parklet improvements.

(a) Site.

- (1) Parklet improvements shall be constructed, maintained, and repaired at the location of the Parklet.¹¹⁸

¹¹⁷ PHILADELPHIA DEPARTMENT OF STREETS, REGULATIONS GOVERNING PEDESTRIAN ENHANCEMENTS PURSUANT TO SECTION 11-613 OF THE PHILADELPHIA CODE (October 1, 2014) (accessible at <http://regulations.phila-records.com/pdfs/Street%20Dept.%20Regs.%201-16-15.pdf>).

(b) Replacement of public improvements.

- (1) Permittee is obligated to replace any and all landscaping and public improvements that are damaged as a result of the construction and installation of the parklet improvements utilizing the same quality of materials and workmanship.¹¹⁹

Section 3.4. Safety.

- (a) A parklet shall be required to have soft-hit posts, wheel stops and barriers on all edges of the parklet platform.¹²⁰
- (b) A parklet shall be limited to roadways with posted speed limits of 25 – 30 mph.¹²¹
- (c) Reflective delineators must be present for nighttime visibility.¹²²
- (d) Access to all utilities must be maintained.¹²³
- (e) A permittee shall keep on record with the department at all times, emergency contact information, including:
- (i) a name;
 - (ii) a mailing address;
 - (iii) an e-mail address; and
 - (iv) telephone number both at work and residential.¹²⁴

¹¹⁸ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ See PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, PARKLETS: BEST PRACTICES 10 (June 19, 2015).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-184PEREASFE).

- (f) Awnings, umbrellas and other decorative material accessory to the parklet shall be fire retardant, pressure treated or manufactured of fire resistive material.¹²⁵
- (g) A parklet shall have some vertical elements such as planters to ensure visibility to passing vehicles. These elements shall obstruct driver views.¹²⁶
- (h) If placed near street corners, a parklet must be at least one parking space away from an intersection or street corner.¹²⁷
- (i) A parklet must be designed for easy removal in case of emergencies.¹²⁸

Section 3.5. Department inspection.

- (a) The department has the authority to enter a parklet area at any time, for any reason, including, but not limited to, parklet inspection.
- (b) Nothing contained in this section shall create a duty on the department to make any repairs or renovations to a parklet.
- (c) Department inspections shall not be a representation, guaranty, or warranty by the department to a permittee, as to a permittee's compliance with the provisions of this ordinance.¹²⁹

Section 3.6. Insurance and indemnification.

(a) Insurance

- (1) Before issuance of a parklet permit, the applicant shall obtain insurance policies of:

¹²⁵ *Id.*

¹²⁶ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION 4 (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

¹²⁷ SAN FRANCISCO PLANNING DEPARTMENT, SAN FRANCISCO PARKLET MANUAL VERSION 2.2 (Spring 2015) http://pavementtoparks.org/wp-content/uploads/2015/12/SF_P2P_Parklet_Manual_2.2_FULL1.pdf.

¹²⁸ *Id.*

¹²⁹ PHILADELPHIA DEPARTMENT OF STREETS, REGULATIONS GOVERNING PEDESTRIAN ENHANCEMENTS PURSUANT TO SECTION 11-613 OF THE PHILADELPHIA CODE (October 1, 2014) (accessible at <http://regulations.phila-records.com/pdfs/Street%20Dept.%20Regs.%201-16-15.pdf>).

- (i) commercial general liability insurance in the amount of \$__._;
 - (ii) business automobile liability insurance in the amount of \$__._;
 - (iii) employer's liability insurance in the amount of \$__._;
 - (iv) property damage liability insurance in the amount of \$__._.¹³⁰
- (2) The applicant shall submit to the department proof that proper insurance has been obtained, including a certificate of insurance signed by the insurance agent. The certificate of insurance shall name the following as insured parties:
- (i) the municipality and its commissioners, officers, employees, and agents; and
 - (ii) the department and its officers, employees, and agents.¹³¹
- (3) The municipality shall have the authority to increase or decrease the policy limits set forth above and shall provide the permittee with at least 30 days written notice such change. Within the 30 days of receipt of the notice, permittee shall submit to the department proof of increased coverage.¹³²

¹³⁰ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-187PAOPCO.)

¹³¹ AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, AT CHAPTER 78, STREETS, SIDEWALKS AND PUBLIC PLACES, CREATING ARTICLE XVIII: PARKLETS, TO ESTABLISH REGULATIONS, STANDARDS, AND GUIDELINES FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF PARKLETS WITHIN THE DOWNTOWN MASTER PLAN AND NORTHWOOD MIXED USE VILLAGE; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES, ORDINANCE NO. 4667-16, <http://wpb.org/getmedia/2f61446f-ab10-4949-975b-8d8c13171d0b/ACM21211>.

¹³² CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. III, § 25-113 (accessible at https://library.municode.com/FL/Fort_Lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTIIIR-I-WAD_S25-112COBO.)

(4) All insurance policies shall provide coverage for the term of the parklet permit. The permittee shall provide the city with a certificate of insurance of the insurance policy for each renewal period of the permit.¹³³

(b) Indemnification.

(1) A permittee shall agree in its initial application to indemnify and hold harmless the municipality, its departments, commissions, boards, elected officials, officers, agents, and employees from and against all actions, causes, demands, losses and liabilities¹³⁴ incurred in defending any claims arising out of, or in connection with, this agreement or rights granted to permittee hereunder.¹³⁵

(2) A permittee shall pay all claims and losses as a result of any judicial proceeding.¹³⁶

(c) Security fund.

(1) Prior to receiving its permit, a permittee shall provide an annual surety bond in an amount set by the municipality. The surety bond shall be conditioned on the full and faithful performance by the permittee of all requirements, duties and obligations set forth in this ordinance.¹³⁷

Chapter 4

¹³³ *Id.*

¹³⁴ OFFICE OF TRANSPORTATION & INFRASTRUCTURE SYSTEMS, CITY OF PHILADELPHIA PARKLETS GUIDELINES & APPLICATION (February 2016), https://www.philadelphiastreet.com/images/uploads/resource_library/City-of-Philadelphia-Parklet-Application.pdf.

¹³⁵ COMMUNITY GARDEN MODEL ORDINANCE, Heather Shoemaker and Daniel Schramm, (accessible at <https://widenerenvironment.files.wordpress.com/2015/12/commuity-gardens.pdf>.)

¹³⁶ *Id.*

¹³⁷ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. III, § 25-115 (accessible at https://library.municode.com/FL/Fort_Lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTIIIR I-WAD_S25-113IN.)

Renewals, Revocations, Appeals

Section 4.1. Renewal of Permit.

(a) Renewal.

- (1) A parklet permit shall be renewed on a two-year application cycle.¹³⁸
- (2) A permittee shall submit a renewal application and pay the associated fees provided:
 - (i) there are no changes to design or structure of the parklet; and
 - (ii) the department determines the parklet meets the criteria set forth in this ordinance.¹³⁹

Section 4.2. Denial, suspension, and revocation of permit; notice.

(a) **General Rule.** The department shall have the authority to deny a parklet permit and application, and the authority to suspend or revoke a parklet permit.

(b) **Denial.** The department may deny a permit application for any of the following reasons:

- (1) the parklet is no longer in the best interest of the municipality;¹⁴⁰
- (2) the permittee failed to comply with the insurance requirements set forth within this ordinance;
- (3) the permittee does not have adequate insurance in the minimum amounts set forth within this ordinance;

¹³⁸ *Id.*

¹³⁹ AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, AT CHAPTER 78, STREETS, SIDEWALKS AND PUBLIC PLACES, CREATING ARTICLE XVIII: PARKLETS, TO ESTABLISH REGULATIONS, STANDARDS, AND GUIDELINES FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF PARKLETS WITHIN THE DOWNTOWN MASTER PLAN AND NORTHWOOD MIXED USE VILLAGE; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES, ORDINANCE NO. 4667-16, <http://wpb.org/getmedia/2f61446f-ab10-4949-975b-8d8c13171d0b/ACM21211>

¹⁴⁰ *Id.*

- (4) the permittee does not have the required tax clearance; and
- (5) opposition of the proposed parklet by residents and businesses located within the municipality.

(c) **Suspension.** The Department may, at its discretion, suspend if:

- (1) the required business or health permit has been suspended or is invalid;¹⁴¹ and
- (2) the permittee failed to maintain the parklet in accordance with this ordinance.

(d) **Revocation.** The department may, revoke a permit if:

- (1) a required business or health permit have been revoked or cancelled;¹⁴²
- (2) the permittee has violated any of the conditions set forth in this ordinance;
- (3) the permittee does not have the required tax clearance;
- (4) the parklet is a nuisance and no longer in the best interest of the municipality;
- (5) the permittee has failed to correct violations of this ordinance within 14 days of receipt of notice.¹⁴³

(e) **Notice.** Upon revocation or suspension of a parklet permit, the department shall give the permittee written notice the action that has been taken and the reasons for the action.¹⁴⁴

Section 4.3. Relocation.

- (a) A permittee understands and agrees that it shall relocate the parklet, and/or remove the parklet improvements, upon the request from the department or the municipality.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-187PAOPCO.)

¹⁴⁴ *Id.*

A permittee shall pay all costs and expenses necessary for the removal or relocation of a parklet and parklet improvements.

Section 4.4. Appeals.

- (a) **Public appeals of approvals.** Any interested person, entity or organization may appeal the approval or denial of a parklet permit decision of the department within 14 days of the effective date.¹⁴⁵
- (b) **Appeals of denial or revocation of Permit.** Appeals shall be initiated within 14 days of the effective date of a denial or revocation of a parklet permit by filing a notice of appeal with the department.¹⁴⁶
- (c) **Notice of appeal.** A notice of appeal of a parklet approval, denials, revocation, and suspensions shall be filed in the same manner in which other notices of appeal are filed in the municipality.

¹⁴⁵ CITY AND COUNTY OF SAN FRANCISCO AND SAN FRANCISCO PUBLIC WORKS, DPW ORDER NO: 183392, GUIDELINES FOR THE APPROVAL AND INSTALLATION OF TEMPORARY SIDEWALK EXTENSIONS (PARKLETS) FOR USE BY THE GENERAL PUBLIC AT APPROPRIATE LOCATIONS WITHIN PUBLIC RIGHTS-OF-WAY (accessible at http://pavementtoparks.org/wp-content/uploads/2015/12/DPW-Order-183392_Parklet-Guidelines_Approved_3-5-20151.pdf.)

¹⁴⁶ CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVII-APA_S25A-187PAOPCO.)