

ORDINANCE NO. 2510

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY AMENDING REDWOOD CITY MUNICIPAL CODE CHAPTER 29 TO ADD THE OUTDOOR BUSINESS ACTIVITY PROGRAM FOR PARKLETS AND SIDEWALK CAFES AND MISCELLANEOUS CLEAN UP CHANGES, AND AMENDING CHAPTER 33A, ARTICLE II, TO REMOVE THE DOWNTOWN SIDEWALK CAFE PROGRAM

WHEREAS, the City Council previously instituted the Sidewalk Café Program in Chapter 33A of the Redwood City Municipal Code through Ordinance No. 1709, adopted June 27, 1977 and amended on November 29, 1993, October 28, 2002, and December 7, 2015, to enhance pedestrian access, utilization of Broadway Mall, and allow sidewalk cafes; and

WHEREAS, the City Council approved a six month pilot program, pursuant to Chapter 33A to authorize Sidewalk Cafés to be located in parking spaces through Resolution No. 15340, adopted May 12, 2014 ("Sidewalk Extension"); and

WHEREAS, the Sidewalk Extension was extended for 1 year from January 25, 2016 to January 25, 2017 through Resolution No. 15468; and

WHEREAS, in response to the COVID-19 Emergency, on June 22, 2020, the City Council ratified a June 15, 2020 proclamation by the City Manager, acting as the Director of Emergency Services, allowing for the Temporary Outdoor Business Activity Program on public and private property; and

WHEREAS, on September 14, 2020, the City Council ratified a September 1, 2020 proclamation by the City Manager, acting as the Director of Emergency Services, allowing the Temporary Outdoor Business Activity Program for the duration of the COVID-19 Emergency; and

WHEREAS, the City has a critical governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its residents and businesses; and

WHEREAS, in order to protect the health and safety of the City, while fostering economic well-being of the City's citizens and businesses, the City wishes to assist businesses and provide them the opportunity to expand their business operations outside where customers feel most comfortable on a longer term basis; and

WHEREAS, the City's priority has been to support struggling businesses during the pandemic, and to facilitate the creation of a longer term Outdoor Business Activity Program to replace all prior outdoor dining programs, including the Sidewalk Café Program and Temporary Outdoor Business Activity Program; and

WHEREAS, to date, approximately forty restaurants have participated in the Temporary Outdoor Business Activity Program, all of whom are expected to participate in the Outdoor Business Activity Program; and

WHEREAS, recent surveys of business participants and feedback from the community showed that there was a need to install longer term parklets and sidewalk cafes to accommodate the continual customer preference to dine outdoors; and

WHEREAS, the success of the Temporary Outdoor Business Activity Program has served as a lifeline for our businesses, their preference would be to invest in longer term parklets and sidewalk cafes to provide business predictability and certainty, while also improving the appearance and aesthetic of the downtown and pedestrian environment in sidewalk and parking stall areas within the City's right of way.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. The Ordinance has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.). This proposed Ordinance is categorically exempt under CEQA as defined in CEQA Guidelines, Section 15304(e) (Minor Alterations to Land) because the project entails only minor public alterations in the condition of land and having no negligible or no permanent effect on the environment. Similarly, CEQA Guidelines, Section 15301 (Existing Facilities) would apply, as it would involve the operation, permitting, or minor alteration of existing public facilities or topographical features, involving negligible or no expansion of existing or former use.

Similarly, the proposed Ordinance does not have an impact on the environment under CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question, namely installation (in some instances) of platform structures over existing paved areas to facilitate outdoor business activity, will have a significant effect on the environment.

Section 3. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. The City Council of the City of Redwood City hereby adopts the Municipal Code Amendments to Chapter 29 as provided in Exhibit A, attached hereto and incorporated by reference, by adding the text shown in double underline (example) and deleting the text shown in ~~strikeout (example)~~. Wording in brackets ([example]) is informational only and is not to be included in the published Ordinance. The Municipal Code Amendments under this Section 4 shall go into effect on the effective date of the Ordinance.

Section 5. The City Council of the City of Redwood City hereby adopts the Municipal Code Amendments to Article II of Chapter 33A as provided in Exhibit B, attached hereto and incorporated by reference, by adding the text shown in double underline (example) and deleting the text shown in ~~strikeout (example)~~. Wording in brackets ([example]) is informational only and is not to be included in the published Ordinance. The Municipal Code Amendments under this Section 5 shall go into effect on October 31, 2022.

Section 6. Staff is directed to discontinue issuing permits under the Temporary Outdoor Business Activity Program, the Sidewalk Café Program, and the Sidewalk Café Pilot Program and commence the process of terminating existing permits. To allow for businesses with existing permits to transition to the Outdoor Business Activity Program, the license agreements required to operate an Outdoor Business Activity may include permission for the businesses to maintain current setups while constructing the parklet and/or sidewalk café authorized by an Outdoor Business Activity Permit.

Section 7. The City Clerk is directed to cause this Ordinance to be published in the manner required by law.

Section 8. This Ordinance shall go into effect 30 days following its adoption.

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ORDINANCE NO. 2510

At a Joint City Council/Successor Agency Board/Public Financing
Authority Meeting thereof held on the 25th day of July 2022 by the following
votes:

AYES, and in favor of the passage and adoption of the foregoing ordinance:

AYES: Espinoza-Garnica, Gee, Hale, Howard, Reddy and Smith
NOES: None
ABSENT: Aguirre
ABSTAINED: None
RECUSED: None



Giselle Hale
Mayor of the City of Redwood City

Attest:



Pamela Aguilar, CMC
City Clerk of Redwood City

I hereby approve the foregoing Ordinance
this 27th day of June 2022.



Giselle Hale
Mayor of the City of Redwood City

Exhibit B

ARTICLE II. USE OF PORTABLE SIGNS WITHIN THE DOWNTOWN PRECISE PLAN THE DOWNTOWN SIDEWALK CAFE AREA

Sec. 33A.15. DEFINITION:

~~For the purposes of this Article, the term "Downtown Sidewalk Cafe Area" shall mean the Downtown Precise Plan Area as defined in Section i.1.2 of the City of Redwood City Downtown Precise Plan, as may amended from time to time.~~

~~A map delineating the above-described Downtown Sidewalk Cafe Area shall be maintained and made available for public review during regular business hours in the offices of the Department of Community Development.~~

~~For the purposes of this Article, the term "Sidewalk Cafe" shall mean and refer to a coffee house, tea shop, restaurant or bar which also provides outside seating and serves food on a public sidewalk pursuant to a valid permit.~~

~~For the purposes of this Article, the term "public sidewalk" shall mean any public right of way designed for pedestrian access~~

Sec. 33A.16. PURPOSE:

~~The Downtown Sidewalk Cafe Area has been designed and constructed as a pedestrian promenade and to enhance pedestrian access to stores and businesses located adjacent thereto. It is the purpose and intent of the City Council, by this Article, to promote the utilization of the Downtown Sidewalk Cafe Area in furtherance of, and in a manner consistent with, the public health, safety, welfare and interest and to create comfortable, enjoyable and aesthetically pleasing public spaces.~~

Sec. 33A.17. PERMIT REQUIRED:

~~It shall be unlawful for any person to erect, maintain or place, or permit the erection, maintenance or placement of, any encroachment within, in, on or upon the Downtown Sidewalk Cafe Area, except an encroachment authorized by building permit, sign permit, demolition permit or other permit issued pursuant to applicable ordinances, resolutions, rules or regulations of the City as now or hereafter in force or effect, unless a permit authorized pursuant to this Article has first been obtained from the City Manager or his or her designee (collectively, "City Manager"). No person shall violate any of the terms of a permit issued for the erection, maintenance or placement of such encroachment. The term "encroachment", as used herein, does not include a self-service or coin operated rack, box, container or other dispenser for the purpose of offering for sale newspapers or news periodicals.~~

Sec. 33A.18. APPLICATION FOR PERMIT:

An application for a permit under this Article shall be made upon a form provided by the City Manager and shall contain all the following information:

- A. ~~The name, residence and business address, and phone number of each person and organization applying for the permit. If the applicant is an organization, the application shall contain the names, residence and business addresses, and phone numbers of the president or chairman thereof, and all of the persons:~~
 - 1. ~~Having an interest or position of management or control in such organization; or~~
 - 2. ~~Who are or will be engaged in organizing, promoting, controlling, managing, or soliciting participation in the activity for which the permit is applied.~~
- B. ~~The date, or dates, and beginning and ending hours of the proposed activity;~~
- C. ~~A description of the nature and location of the proposed activity;~~
- D. ~~A drawing, photograph or other detailed depiction or representation and the approximate weight of any equipment or appurtenance proposed to be erected, placed or maintained in or on the Downtown Sidewalk Cafe Area in connection with the proposed activity;~~
- E. ~~The purpose of the proposed activity;~~
- F. ~~Whether any sound amplification equipment is proposed to be used, and if so, information describing such sound amplification equipment;~~
- G. ~~A drawing, photograph or other detailed depiction or representation of any item intended to be displayed;~~
- H. ~~A statement that the applicant shall agree to (1) assume the defense of and indemnify and save harmless the City, its councilmembers, boards, commissions, officers, employees and agents (collectively, "Indemnitees"), from all suits, actions, damages, or claims of any kind or nature, to which the Indemnitees, or any one of them, may be subjected, of any kind or nature resulting from, caused by, alleged to have been caused by, arising out of, or as a consequence of, the activity conducted in connection with the permit; and (2) secure and deposit with the City Manager and maintain during the term of the applicable permit and for a period of four (4) months after the termination or revocation of the applicable permit, comprehensive general liability and property damage insurance on terms and conditions set forth in the permit application. The issuance coverage shall be evidenced by certificates of insurance and declaration pages or endorsements. No permit shall be effective prior to the approval of the insurance coverage by the City Manager.~~
- I. ~~Such other information as the City Manager deems reasonably necessary in order to carry out his duties under this Article.~~

Sec. 33A.19. TIME OF FILING:

The application shall be filed not less than thirty (30) days prior to the scheduled date of the commencement of the proposed activity. Failure to file within such period is sufficient grounds for denial of a permit.

Sec. 33A.20. LOCATIONS PERMITTED:

Encroachments, excepting those intended for the purpose of conducting a sidewalk cafe or a special activity, shall be solely limited to those locations that have been approved by the City Manager. A map of such approved locations shall be made available to all applicants.

Sec. 33A.21. SPECIAL ACTIVITIES:

When an application is submitted for an encroachment permit to conduct an activity which, due to its proposed size or nature, cannot reasonably be conducted or maintained within a single location, the applicant shall designate proposed locations on a map submitted as part of the application, indicating distances from curbs, crosswalks, driveways, building entrances and fire hydrants, which proposed locations shall be subject to the approval of the City Manager. All such encroachments shall meet all the following minimum location requirements:

- A. There shall at all times remain open for the passage of pedestrians a space of not less than five feet (5') in width.
- B. Equipment and displays associated with approved activities shall not be permitted:
 - 1. Within three feet (3') of the curb when adjacent to a traffic lane, except for the 2600 block of Broadway;
 - 2. Within two feet (2') of the curb on the 2600 block of Broadway;
 - 3. Within five feet (5') of the outer edge of any crosswalk or driveway measured in each direction parallel to the street and thence at a ninety degree (90°) angle to the curb;
 - 4. Within five feet (5') of the outer edge of any entrance to any building, including doors and emergency exits, measured in each direction parallel to the building line, and thence at a ninety degree (90°) angle to the curb.

Sec. 33A.22. SIDEWALK CAFES:

When an application is submitted for a permit to conduct a sidewalk cafe, the applicant shall submit as part of the application, a diagram designating the proposed placement, dimensions and numbers of tables, chairs and any other appliances or equipment proposed to be placed on the Downtown Sidewalk Cafe Area in conjunction with the sidewalk cafe, all of which shall be subject to the approval of the City Manager.

Sec. 33A.22.5. PORTABLE SIGNS:

Every application for an encroachment permit to install and maintain a portable sign shall include a diagram specifying the proposed location, design, dimensions and structural details for a free standing portable sign. The following minimum requirements shall govern the issuance of an encroachment permit for portable signs:

- A. ~~An architectural permit and payment of the fee pertaining thereto shall be required as a condition of issuance of an encroachment permit for a portable sign; The proposed portable sign must be located within the Downtown Precise Plan Area as defined in Section i.1.2 of the City of Redwood City Downtown Precise Plan, as may be amended from time to time;~~
- B. The design of the proposed sign shall comply with the latest approved City guidelines for portable signs on file in the offices of the Planning Division, Department of Community Services; provided, that if the proposed sign complies with all applicable portable sign specifications and standards set forth in said guidelines, the application may incorporate such standards and specifications by reference;
- C. ~~In addition to all other locational requirements specified in Section 33A.21, aA~~ portable sign shall be limited to one specified location as set forth in the permit therefor and comply with the following locational requirements:

 - 1. There shall at all times remain open for the passage of pedestrians a space of not less than five feet (5') in width.
 - 2. Portable signs and associated equipment and displays shall not be permitted:

 - a. Within three feet (3') of the curb when adjacent to a traffic lane, except for the 2600 block of Broadway;
 - b. Within two feet (2') of the curb on the 2600 block of Broadway;
 - c. Within five feet (5') of the outer edge of any crosswalk or driveway measured in each direction parallel to the street and thence at a ninety degree (90°) angle to the curb;
 - d. Within five feet (5') of the outer edge of any entrance to any building, including doors and emergency exits, measured in each direction parallel to the building line, and thence at a ninety degree (90°) angle to the curb;
- D. No portable sign permitted hereunder shall exceed six feet (6') in height from sidewalk grade, three feet (3') in width at its widest point and twelve (12) square feet in area;
- E. Only one portable sign shall be permitted for a specific building and business; provided, that, for any building where more than one business occupies a common building frontage area, one portable sign only, for a particular business may be permitted for every twenty-five (25) linear feet of building frontage area;

- F. Portable signs permitted hereunder may be placed and maintained only during business hours of the activity associated therewith and shall be removed entirely from the public rights of way at all other times;
- G. No alteration, modification or other change to any portable sign authorized to be placed and maintained pursuant to an encroachment permit issued hereunder shall be made without first obtaining prior approval thereof by the manager or his or her designee pursuant to the requirements of this Section; and
- H. The permittee shall remove immediately any portable sign permitted pursuant to an encroachment permit issued hereunder if such sign shall become damaged, in disrepair, faded or otherwise fail to conform with the standards and specifications set forth herein or in the architectural permit required as a condition hereunder.

Sec. 33A.23. CONDITIONS FOR ISSUANCE:

~~Any permit granted under this Article may contain conditions reasonably calculated to reduce or minimize the dangers and hazards to vehicular or pedestrian traffic and the public health, safety, tranquility, morals or welfare; to reduce or minimize the possibility of damage to public and private property and the liability of the City therefor; and to reduce or minimize the proliferation of trash, garbage and litter, arising out of the permitted activity; including, but not limited to, use of sound equipment, location of activity, placement and removal of equipment including tables and chairs, hours of operation, size and weight limitations of equipment and displays, duration of operation, clean up deposits and evidence of insurance in amounts satisfactory to the City Manager.~~

Sec. 33A.24. SUSPENSION OF PERMIT:

~~The City Manager shall have the authority, at any time, to temporarily suspend any permit granted under this Article, upon a determination that the space utilized by the permittee is necessary to the conducting of an activity in recognition or celebration of a national, state or locally declared, holiday or of a day or days for which a national, state or local proclamation has been issued.~~

~~A permit suspended pursuant to this Section shall be reinstated as soon as reasonably possible after the completion of the supervening activity.~~

~~Upon reinstatement, the period for which the permit was granted shall be extended by a period equaling the duration of the suspension.~~

Sec. 33A.25. PERMIT DURATION:

~~A. No permit shall be issued for a period exceeding fifteen (15) days, except permits for operating and maintaining a sidewalk cafe ("sidewalk cafe permit"), maintaining a store-front display (the "store-front display permit") or maintaining a portable sign ("portable sign permit"). Sidewalk cafe permits and store-front display permits shall be issued for a period of thirty (30) days, but the terms of which shall be deemed automatically renewed for succeeding thirty (30) day periods, unless revoked or~~

~~terminated. Portable sign permits may be issued for a period not to exceed one year; but the terms of which shall be deemed automatically renewed for succeeding like terms, unless revoked or terminated.~~

- ~~B. Not more than three (3) permits shall be issued to the same applicant, or partner, agent, licensee or representative thereof, for the same or similar activity in any calendar year, except permits for activities to be directly conducted by an association of merchants meeting the criteria set forth in Section 33A.31 F1.~~

~~Sec. 33A.26. TEMPORARY PERMIT:~~

~~All permits granted under this Article are temporary in nature, revocable by the City Manager or his or her designee, and do not constitute a deed, a grant of easement, or a leasehold interest in the subject premises.~~

~~Sec. 33A.27. PERMIT FEE:~~

~~Applications for a permit shall be accompanied by a processing fee in an amount set by resolution of the City Council. No part of a processing fee shall be refundable; provided, however, that no such fee shall be charged for a permit involving an activity sponsored or conducted by a charitable organization.~~

~~Sec. 33A.28. PERMIT DISPLAYED:~~

- ~~A. Every person to whom a permit is issued hereunder, except those issued pursuant to Sections 33A.22 and 33A.22.5, shall display such permit in a conspicuous location upon the equipment or other property utilized in conjunction with the permitted encroachment during all hours of operation of the activity associated therewith.~~
- ~~B. Every person to whom a permit is issued pursuant to Section 33A.22 (Sidewalk Cafes) and Section 33A.22.5 (Portable Signs) shall maintain such permit in a conspicuous location within the business enterprise associated with the permitted encroachment such that said permit shall be readily observable during all hours of operation of the activity associated therewith.~~

~~Sec. 33A.29. HOLD HARMLESS:~~

~~Applicants shall agree to assume the defense of and indemnify and save harmless the City, its councilmen, boards, commissions, officers, employees and agents, from all suits actions, damages or claims to which the City may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of or as a consequent of the permitted activity.~~

~~Sec. 33A.30. COMPLIANCE WITH LAWS:~~

~~Prior to issuance of a permit under this Chapter, all applicable rules, regulations and laws shall be complied with and all required permits or licenses shall be secured in connection with the proposed activity.~~

Sec. 33A.31. STANDARDS FOR ISSUANCE:

A permit shall be issued by the City Manager, when, from a consideration of the application and from such other information as may otherwise be obtained, he/she finds that all of the following circumstances exist:

- A. ~~The applicant has not knowingly and with intent to deceive, made any false, misleading or fraudulent statements of material facts in the application for a permit or in any other document required pursuant to this Article;~~
- B. ~~The applicant has met the standards in this Article, and paid in advance any fee required and agrees to such conditions as are imposed in the permit;~~
- C. ~~The time, duration, location and size of the proposed activity will not substantially disrupt the orderly safe movement of pedestrian or vehicular traffic, or endanger any mall improvements or fixtures;~~
- D. ~~The proposed activity will not conflict with or interfere with another proposed activity for which an encroachment permit has been granted;~~
- E. ~~The proposed activity by itself or together with other proposed activities for which encroachment permits have been granted, does not generate a concentration of persons which unduly interferes with proper fire and police protection to areas contiguous to such activities, or unduly interferes with the convenient operation of established businesses along Broadway.~~
- F. ~~For proposed encroachment activities involving the selling, bargaining, or otherwise transferring, or offering for sale or transfer, of any goods, wares or merchandise, arts or crafts, or exhibits:~~
 - 1. ~~Such activity is sponsored by an association of merchants operating businesses located within the Downtown Sidewalk Cafe Area, and organized for a period of at least one year; or~~
 - 2. ~~The items to be sold or transferred are handcrafted objects made by the vendor, or if flowers or plants are to be sold or transferred, such flowers or plants are hand grown, collected and/or arranged by the vendor and such sale or transfer of flowers or plants does not take place within five hundred feet (500') of an established business along Broadway selling flowers or plants, unless such activity is in the form of a store front display by the owner of such established business; or~~
 - 3. ~~(a) Such activity is a sidewalk cafe conducted by a merchant whose business is located within the Downtown Sidewalk Cafe Area and which sidewalk cafe does not extend beyond the frontage width of the place of business associated therewith; (b) such activity is a sidewalk cafe proposed to be conducted by a merchant whose business is located within the Downtown Sidewalk Cafe Area and which sidewalk cafe would extend beyond the frontage width of the place of business associated therewith. In such event, the City Manager shall, within ten (10) calendar days from the date of receipt of a complete application, send written notice (the "notice")~~

of the application to the property owner(s) and the business owner(s) (as shown on the latest County Assessor's roll and on the City's business license roll, respectively; collectively, the "adjacent owners"), in front of which the sidewalk cafe is proposed to be extended, informing them of the date, time and place of the hearing on the sidewalk cafe permit application (the "hearing"). The notice shall be mailed at least ten (10) calendar days prior to the date of the hearing. The hearing shall be conducted by the City Manager.

4. ~~Such activity is a store front display by a merchant whose business is located along Broadway, which store front display does not extend beyond the frontage width of the place of business associated therewith, unless otherwise agreed to in writing (the "consent") by the owner or owners of the property in front of which the store front display is proposed to be extended. Store front displays shall be limited to those items of goods, wares or merchandise commonly sold or offered for sale in the place of business associated therewith. The consent shall be valid for the length of the term of the permit and any renewal thereof unless the consent is revoked in writing at least sixty (60) days prior to any permit issuance anniversary.~~

Sec. 33A.32. NONTRANSFERABILITY:

~~No permit issued pursuant to this Article shall be transferable except with the written approval of the City Manager. A written application for such a transfer shall be made to the City Manager and shall be accompanied by a filing and processing fee of ten dollars (\$10.00), no part of which shall be refundable. The application for such transfer shall contain the same information as required herein for an initial application for a permit as set forth in Section 33A.18 herein. In the event of denial of such transfer, notification of and reasons for denial shall be set forth in writing and shall be sent to the applicant by mail or delivered in person.~~

Sec. 33A.33. NOTICE OF ISSUANCE OR DENIAL:

~~Written notice of the issuance or denial of a permit sought under Section 33A.31 F3(b) shall be provided to the applicant and adjoining owners within twenty (20) calendar days after the hearing. Written notice of the issuance or denial of any other permit pursuant to this Article shall be provided to the applicant within twenty (20) days of receipt of a complete application. If a permit is denied, said written notices shall state the reasons for denial.~~

Sec. 33A.34. REVOCATION, TERMINATION OF PERMIT:

~~Any permit issued pursuant to this Article may be revoked prior to the end of the permit's term by the City Manager at any time when, by reason of an emergency, disaster, calamity, disorder, riot, traffic conditions, violation of this Article or of any permit conditions, or undue burden on public services, he/she determines that the health, safety, tranquility, morals or welfare of the public or property requires such revocation. Notice of revocation of a permit shall be sent to the permittee by first class mail or delivered in~~

~~person. Such notice shall state the reasons for the revocation. Continuance of the activity after such notice has been delivered is unlawful.~~

~~Permits issued pursuant to this Article may be terminated at the end of a term by the City Manager by written notice to the permittee (the "termination notice"). The termination notice shall be sent to the permittee by first class mail or delivered in person at least thirty (30) calendar days prior to the date of termination. No reason shall be required to be given for the termination of a permit. Continuation of the activity after the date of termination shall be unlawful.~~

~~Sec. 33A.35. APPEALS PROCEDURE:~~

~~Any interested person may appeal the City Manager's decision regarding permits required by this Article to the City Council by filing a written appeal within fifteen (15) days of the date of the notice of decision. The appeal shall be filed, processed and heard in accordance with Chapter 1 of this Municipal Code.~~