ORDINANCE NO. 2023-378

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR, AMENDING THE TOWN OF WINDSOR ZONING ORDINANCE TO ADD SECTION 27.34.220 "PARKLETS", WHICH PRESCRIBES REGULATIONS AND DESIGN STANDARDS FOR OUTDOOR DINING AREAS IN THE PUBLIC RIGHT OF WAY

WHEREAS, on March 16, 2020, in his capacity as Director of Emergency Services, the Town Manager proclaimed the existence of a local emergency in the Town of Windsor due to COVID-19, which was ratified by the Town Council on March 18, 2020; and

WHEREAS, In July 2020, Town staff created the Temporary Outdoor Dining and Commerce Program which established requirements and guidelines associated with the use of the public right-of-way and the creation of parklets. This program, along with the adoption of Ordinance 2020-345, provided restaurants with the ability to provide food and alcohol to their customers in a socially distant manner; and

WHEREAS, In October 2020, Town staff modified the Temporary Outdoor Dining and Commerce Program to add additional allowances and health and safety regulations for tents and heaters and to extend the program until December 1, 2021; and

WHEREAS, On October 17, 2021, the Town Council authorized an extension of the Town of Windsor Temporary Outdoor Commerce Permit until December 31, 2022, and approved the implementation of additional guidelines for the program; and

WHEREAS, On October 5, 2022, the Town Council received a report and provided feedback to staff on the future of the Temporary Outdoor Dining and Commerce Program, and the Urgency Ordinance Allowing Temporary Consumption of Alcoholic Beverages in Public Areas Downtown and directed staff to explore options to reduce the parking impacts caused by the parklets; and

WHEREAS, On November 2, 2022, the Town Council directed staff to amend the Temporary Outdoor Dining and Commerce Program by extending it until March 31, 2023, to allow time to develop a permanent Outdoor Dining and Commerce Permit and explore options to reduce parking impacts and increase parking the Downtown; and

WHEREAS, On December 7, 2022, the Town Council, by motion, authorized an extension of the Town of Windsor Temporary Outdoor Dining and Commerce Program (Parklet Program) until March 31, 2023; and

WHEREAS, on February 28, 2023, the Planning Commission held a duly noticed public hearing on the subject Zoning Text Amendment and recommended approval of the proposed amendments; and

WHEREAS, the Town Council received Planning commission's recommendation and considered the aforementioned amendments at a duly noticed public hearing on March 15, 2023; and

WHEREAS, the Town Council make the following findings as required by Zoning Ordinance Section 27.42.050(B) in order to amend the Zoning Ordinance:

The proposed amendment is consistent with the General Plan; and
The proposed Zoning Text Amendment is consistent with the following General Plan goals, policies, and programs:

LU-1.10 Create Visual Interest. The Town shall encourage building design and architecture that create visual interest and engaging spaces along streets, maintain an attractive environment, and promote informal surveillance of public spaces by building occupants. Whenever possible, building fronts should not be dominated by garage doors, vehicle parking areas, or blank walls.

Downtown/Station Area
LU-10.1 Reinforce Downtown Identity. The Town shall continue to reinforce and enhance the identify of Downtown as the commercial, civic, and cultural heart of Windsor by expanding the Downtown commercial core and accommodating a broader array of uses and activities.

LU-10.3 Enhance the Public Realm. The Town shall maintain a unified image for Downtown and continue to enhance the public realm with high-quality buildings with active frontages behind wide sidewalks, consistent streetscapes, improved sidewalks, and greater opportunities for outdoor dining.

LU-10.6 Adequate Downtown Parking. The Town shall strive to maintain an adequate supply of parking spaces in the Downtown/Station Area to meet the demands of visitors and riders of the SMART commuter rail system and shall implement policies that adapt to innovations and technologies which may lessen the need for traditional parking models.

Downtown Windsor
ED-2.1 Continue Downtown Enhancements. The Town shall encourage retail diversity in the Downtown, including the establishment of anchor specialty retail shops, boutiques, art spaces, wineries/tasting rooms, restaurants, and entertainment uses, as well as, residential, office, and convenience shopping.

ED-2.2 Public Realm. The Town shall continue to invest in the public realm and emphasize civic and community uses in the Downtown area.

ED-2.6 Expand Downtown Attractions. The Town shall continue to promote expanded amenities and attractions in Downtown and the Town Green, including restaurants, entertainment venues, and festivals/events.

ED 2.7 Downtown Parking Strategies. To ensure the continued economic success of Downtown, the Town shall develop and implement multiple parking strategies to increase the

parking supply and manage parking demand.

Transportation and Mobility
M-1.3 Development of Pedestrian, Bicycle, and Transit Facilities. The Town shall encourage the development of facilities and services (e.g., secure long-term bicycle parking, street lights, street furniture and trees, transit stop benches and shelters, and street sweeping of bike lanes) that enable bicycling, walking, and transit to become more widely used modes of transportation and recreation.

M-2.3 Safe and Comfortable Streets. The Town shall design streets to enhance Windsor's identity, to be safe and convey a sense of security, and to be comfortable and convenient for all travel modes including motor vehicles, pedestrians, and bicyclists.

M-2.10 Bicycle and Pedestrian Connectivity. The Town shall ensure that commercial and residential development, including affordable housing projects, provides convenient and direct connections to the nearest existing bikeways, pedestrian ways, and public transit facilities.

M-4.11 Bicycle Parking. The Town shall continue to require adequate bicycle parking facilities at schools, parks, shopping centers, and places of employment in both commercial and industrial areas.

M-6.1 Adequate Townwide Parking. The Town shall strive to ensure adequate parking throughout Town, while continuing to promote alternative modes of transportation.

M-6.7 Downtown Parking. The Town shall consider creative and flexible solutions to manage the Downtown parking supply and demand, including parking demand created by visitors to the Downtown and riders of the SMART commuter rail service, recognizing that a balance of public and private efforts is needed to address Downtown parking issues. Management solutions to be considered should include review of current parking requirements for private development projects in the Downtown area, increasing the supply of on- and off-street public parking facilities, and implementation of time-based parking controls.

The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the Town.

Support – A Minor Use Permit would be required for all proposed permanent parklets in the Town. Through this process, each application is reviewed by various Town departments such as Public Works, Fire, and Building department along with any other applicable agency. This review would be to ensure the project complies with all standards listed in the draft Parklet Program and Guideline and Zoning Text as well as any other applicable local, State, and Federal regulations. As well, this review would identify any potential conflicts that may be determinantal to public interest, health, safety, convenience, or welfare. Projects would be required to be revised and conditioned to solve these issues as part of the Minor Use Permit approval process. Should projects not be able to solve these issues, they would be denied.

The proposed amendment is internally consistent with other applicable provisions of this Zoning Ordinance.

Support – The proposed amendments for parklets are internally consistent with other applicable provisions of the Zoning Ordinance in that the definitions have been amended to include the new definitions related to parklets; the various proposed regulations that apply to parklets would be added as section 27.34.220; and the Allowed Uses and Permit Requirements for Commercial Zoning Districts (Table 2-4) have been amended.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF WINDSOR, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CEQA Findings.
The Town Council finds that this Zoning Text amendment is exempt from the California Environmental Quality Act pursuant to pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Existing Facilities) and Section 15311 (Accessory Structures).

SECTION 2.
Article 2 – Section 27.10.030 of the Town of Windsor Zoning Ordinance entitled "Commercial District Land Uses and Permit Requirements" is hereby amended as follows (additions in red)

TABLE 2-4
Allowed Uses and Permit Requirements for Commercial Zoning Districts
(Rev. 02/06/13 Ord. 2013-277, 04/09/18 Ord2017-318)

P Permitted Use (2) (3)
MUP Minor Use Permit Req. (3)
UP Use Permit Req. (3)
— Use not allowed

LAND USE (1)	PERMIT REQUIRED BY DISTRICT									Specific Use Regulations
	NC	CC	TC	TC AUFO	TC EO (11)	SC	GC	BC	RC	
SERVICES										
Ambulance services	—	—	—	—	—	P	—	—	—	
Automated teller machines (ATMs)	P	P	P	P	P	P	P	P	P	
Banks and financial services	P	P	P	P	P	—	P	P	P	
Bed and breakfast inns	MUP	—	P	P	—	—	MUP	MUP	MUP	27.34.060
Business support services	P	P	P	MUP	MUP	P	P	P	P	
Car wash	UP	UP	—	—	—	UP	UP	—	—	
Child and adult day care centers	MUP	P	MUP (7)	P	—	—	—	MUP	MUP	27.34.070
Child day care – Large family day care homes	MUP	MUP	MUP	—	—	—	—	MUP	MUP	27.34.070
Child day care – Small family day care homes	P	P	P	—	—	—	—	P	P	
Drive-in and drive-through	—	UP	—	—	—	UP	UP	—	—	
Hotels and motels	—	P	P	P	—	—	P	—	P	
Kennels, commercial	—	—	—	—	—	MUP	—	—	—	
Marijuana testing facilities	—	—	—	—	—	—	—	—	—	27.06.050
Medical services – Clinics, offices, laboratories	P	P	P	—	—	P	P	P(4)	P	
Medical services – Extended care	—	UP	UP	—	—	—	—	UP	UP	
Medical services – Hospitals	—	UP	—	—	—	UP	—	UP	UP	
Mortuaries and funeral homes	—	UP	—	—	—	UP	—	—	—	

		TABLE 2-4 Allowed Uses and Permit Requirements for Commercial Zoning Districts (Rev. 02/06/13 Ord. 2013-277, 04/09/18 Ord2017-318)									P Permitted Use (2) (3) MUP Minor Use Permit Req. (3) UP Use Permit Req. (3) — Use not allowed
LAND USE (1)		PERMIT REQUIRED BY DISTRICT									Specific Use Regulations
		NC	CC	TC	TC AUFO	TC EO (11)	SC	GC	BC	RC	
Offices – Accessory to primary use		P	P	P	—	—	P	P	P	P	
Offices – Business and professional		P	P	P	—	—	P	P	P	P	
Parklet		—	—	MUP	MUP	—	—	—	—	—	27.34.220

SECTION 3. Article 3 – Section 27.34.220 is hereby added to the Town of Windsor Zoning Ordinance.

27.34.220 – Parklet

Parklets shall comply with the requirements of this Section, where allowed by Section 27.10.030 – Commercial Land Uses and Permit Requirements. Notwithstanding anything in this section, Parklets are also subject to the requirements listed in the Town's "Parklet Agreement and Guidelines".

A. **Purpose.** The provisions of this Section are intended to set standards associated with the creation of parklets in the public right-of-way.

B. **Location Criteria.** Parklets may be located as follows:
   1. **Adjacency to Storefront -** Parklets may only be installed along the frontage of the storefront that is applying for the parklet. Parklets are not allowed to use the frontage of adjacent storefronts. Parklets shared with adjacent businesses will be considered on a case-by-case basis.
   2. **Maximum Parking Stalls -** A maximum of three parking spaces may be used for each parklet.
   3. **Corner Locations -** Parklets located adjacent to intersection crosswalks shall provide a 25-foot setback from the nearest crosswalk. Parklets that cannot meet these setback requirements may be considered on a case-by-case basis on whether sight distance and safety can be maintained.
   4. **Setbacks -** Parklets shall have a 2-foot minimum setback from the travel lane measured from the parking striping adjacent to the travel lane. Parklets shall have a 3-foot minimum side setback to the nearest parking space.
   5. **Utilities -** Parklets shall not obstruct fire hydrants. If a parklet is constructed over utility access panels or manholes, access shall be easily available. If there is emergency maintenance needed, any parklet covering utilities will be required to be removed and restored at the parklet owner's expense.
   6. **Bike Lanes -** Parklets shall not obstruct a bicycle lane or path.

C. **Amount Permitted.** Parklets shall not exceed more than twenty (20) spaces cumulatively in the Town. Fifteen (15) spaces shall be allowed for yearly parklets and five (5) spaces shall be allowed for monthly parklets.

D. **Hours of Operation.** Parklets may be used daily between the hours of 11 a.m. to 9 p.m.

E. **Operational Standards**
   1. **Private Control** – Parklets will be considered private space under the control of the permit holder. The permit holder is fully responsible for all construction and setup costs, operations, and maintenance, full liability release and indemnification, and provisions of insurance.
   2. **Site Maintenance** – Parklets shall be maintained free of litter, refuse, and debris.
   3. **Safety Inspections** – The parklet is subject to regular inspection by Town Staff without notice and the Town reserves the right to require adjustments or removal of any elements, if deemed unsafe.
   4. **Alcoholic Beverages** – Parklets that serve alcoholic beverages shall secure any Alcohol Beverage Control (ABC) permitting and all physical requirements of ABC should be reflected in the design submitted for review.
   5. **Food Preparation** – No outdoor food preparation is permitted within a parklet or adjacent public right of way.
   6. **Parklet Removal** – Permit holders are responsible for removal of the Parklet within thirty (30) days should the business vacate the primary storefront.

F. **Parklet Fees**. Parklets are subject to monthly rent for the private use of public space. Rent is determined by the Town. Fees are subject to change.

SECTION 4. Article 6 – Section 27.60.020 of the Town of Windsor Zoning Ordinance entitled "Definitions is hereby amended as follows.

P. Definitions, "P."

Parklet. A parklet is a small portion of public space (i.e., parking stalls or public right-of-way) that has been reappropriated to serve as an extension of one or more commercial businesses and incorporates non-permanent materials and amenities. Types of parklets include the following.

1. Yearly Parklet. A parklet that operates a minimum of ten (10) months out of the year.

2. Monthly Parklet. A parklet that operates a maximum of four (4) months out of the year.

SECTION 5. Severability.
If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held

unconstitutional, invalid, or unenforceable.

SECTION 6. Effective Date.
The provisions of this Ordinance shall become effective thirty (30) days from and after the date of its passage. The parklet pilot program will sunset and expire three (3) years from the implementation date of the pilot program unless extended by the Town Council of the Town of Windsor.

SECTION 7. Publication or Posting.
The Town Clerk of the Town of Windsor shall cause this Ordinance to be published and/or posted after its adoption in accordance with California Government Code section 36933.

PASSED, APPROVED AND ADOPTED this 7th day of June 2023, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, POTTER AND WALL**
NOES:	**VICE MAYOR SALMON AND MAYOR REYNOZA**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

ROSA REYNOZA, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK