



October 19, 2023

VETO STATEMENT FROM MAYOR BHALLA ON ORDINANCE B-610

Over the past several months, I appreciate the City Council's partnership with my administration in mitigating rodent activity in Hoboken through measures including a containerized garbage ordinance, increasing funding available for rodent extermination, an ordinance allowing the City to exterminate on negligent properties, the purchase and distribution of over 2,000 garbage containers with tight-fitting lids, and requiring new extermination and sanitation requirements for parklets, among several other initiatives.

I am generally supportive of the ordinance sponsored by Councilmembers Phil Cohen and Mike DeFusco issuing a five-month moratorium on new parklet applications, to allow our staff to continue to enforce our existing rules and regulations for existing parklets. Nonetheless, I am respectfully vetoing the ordinance adopted by the Council that bans all future parklets. In my opinion, the ordinance does not effectively address the issue it aims to resolve and simultaneously hurts the business community, to the detriment of our broader Hoboken community.

I share the sentiments of the Hoboken Business Alliance in the letter they sent the council last week which I believe has accurately summarized the issue. See below.

Dear Honorable Councilmembers,

The Hoboken Business Alliance (HBA), as the advocate for Hoboken's business community, would like to express our concern about recently introduced legislation which would prohibit dining establishments across the city from installing new "parklets" to expand options for their customers.

This proposal would ban new Parklets and allow only sidewalk cafes or strEATeries. Existing Parklet structures would be allowed to remain in place, creating a two-tiered system. We believe that all current and future businesses should have the option to invest in the unique opportunity

of the Parklet model, and that it is a draw for new establishments to open and thrive by providing additional beautiful outdoor amenities for Hoboken residents and visitors.

A robust outdoor dining program is an expectation of consumers and strengthens Hoboken's position as a unique destination. With fewer options, the HBA is concerned our businesses will opt out of outdoor dining, which is detrimental to their success and that of our city. The Food Services industry is an important part of the Hoboken economy not only for its sales and employment contributions, but also as a pivotal contributor to the high quality of life that makes Hoboken so attractive to many residents and large employers – 37% of respondents to the HBA community survey indicated that they wanted to see more opportunities for outdoor dining in Hoboken – not less.

Parklets generate meaningful additional income and employment that was crucial to saving businesses during the pandemic and continue to do so now as significant economic turbulence and rising costs continue to necessitate creative solutions. The structures themselves provide stability for scheduling customers and employees that StrEATeries do not always offer, and many businesses do not have the capacity to store removeable set ups when not in use.

A one size fits all approach is not appropriate or helpful for businesses. While the HBA continues to support and participate in efforts to address rodent control in Hoboken, there is not significant or clear data that directly links Parklets to an increase in rodent activity. The business most impacted by the removal of a parking space in front of its storefront can decide whether to apply for a Parklet or other outdoor dining permit based on its own cost/benefit analysis. Others who might be impacted can weigh in on the decision to grant or deny such application via the existing rules process.

We believe that the City already has all the tools it needs to address the challenges and concerns cited as driving forces behind this change through either existing regulation – like the stronger cleaning and rodent mitigation standards for Parklets that the Council only just passed last month in addition to the citywide container requirements - or through changes to standards of design and construction as opposed to a wholesale removal of this important option.

We ask the City Council to vote no on this proposed change and welcome the opportunity to work in close partnership to help the Hoboken community implement a world class outdoor dining program with best-in-class rodent mitigation strategies that benefit everyone.

Sincerely,

Roxanne Earley

Executive Director, HBA

1st Reading # 2 10-4-23

SPONSORED BY: [Signature]
SECONDED BY: [Signature]

**CITY OF HOBOKEN
ORDINANCE NO.:**

**AMENDMENT TO HOBOKEN CITY CODE CHAPTER 138 "OUTDOOR
DINING" TO REMOVE PARKLETS**

NOW, THEREFORE, the city council of the city of Hoboken does hereby ordain as follows (additions noted in underline, deletions noted in strikethrough):

**SECTION ONE: AMENDMENT TO HOBOKEN CITY CODE CHAPTER 138
"OUTDOOR DINING" TO REMOVE PARKLETS AS AN OPTION MOVING
FORWARD**

§ 138-1 Purpose, Applicability.

A. The purpose of this chapter is to stimulate the local economy by creating opportunities for restaurants, bars, distilleries, and breweries through expanded outdoor dining opportunities and to provide a safe, comfortable environment for residents and visitors to enjoy public spaces within the City of Hoboken.

B. The provisions of this chapter shall take effect immediately upon of the chapter as provided by law.

C. This Chapter is not intended to supersede but shall be read in *pari materia* with other applicable State of New Jersey, County of Hudson, and City of Hoboken laws governing the use of streets, sidewalks, and rights-of-way, and with State of New Jersey and City of Hoboken laws pertaining to the service and consumption of alcoholic beverages.

D. Effective as of November 7, 2023 [the expected effective date of the herein amendment, to be amended to the actual effective date depending upon the date of final passage], no new applications for "Parklets" shall be approved. Parklets that have been approved prior to this date shall be permitted to remain and are subject to renewal based upon the standards contained herein.

§ 138-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Amenity strip

The outside portion of the sidewalk, closest to the street, typically two feet to four feet in width, where signs, parking meters, trees and public amenities such as benches and bike racks are located.

Bar

A place of business duly licensed by the alcoholic beverage control board for the sale and on-premises consumption of alcoholic beverages by the drink as the principal or primary use, with the option of some food service provided, including but not limited to prepackaged snacks.

Brewery

A business operating under a brewery license pursuant to N.J.S.A. 33:1-10 of the State of New Jersey.

Distillery

A business that has been issued, and is in compliance with, a distillery license pursuant to N.J.S.A. 33:1-10 of the State of New Jersey.

Parklet

A semi-permanent patio or deck, whether covered or uncovered, used for outdoor dining. A parklet may be constructed using curbside parking spaces adjacent to the business premises. A parklet may also be constructed in a parking lot owned or leased by the business and adjacent to the business establishment subject to the provisions herein.

Restaurant

A place of business or portion thereof where food and beverages are cooked, prepared, sold, served, and consumed on the business premises.

Sidewalk

That portion of the public easement which lies between the building line and the curb, including the amenity strip.

Sidewalk cafe

Sidewalk space beyond the building line and to the front of a qualifying establishment as defined herein which could be expanded to include space in front of a building which is immediately next door to the qualifying establishment, which space is used to accommodate tables and chairs for patrons to utilize.

StrEATery

A temporary outdoor dining area created by converting curbside parking space adjacent to the business premises using movable barriers, tables and chairs, street covering, pop-up canopies and/or similar delineation as permitted herein.

Yard

Any open space within the boundaries of the property. Rear yards are at the back of the lot. Side yards are next to the building and may or may not have frontage exposure on the right-of-way.

§ 138-3 Licensing required.

A. License required. Any restaurant, bar, distillery, or brewery desiring to utilize outdoor space as an extension of their business for dining shall file an application, annually, with the city zoning officer.

B. New applications. New applicants for use of public space for outdoor dining shall submit their application, on a form so provided by the City. New applications shall be accompanied by, at minimum:

- (1) Architectural drawings (as required), or a diagram, sketch, and photographs, that depict the design, dimensions, boundaries, and placement of barriers, tables, chairs, benches, canopies, planters, heaters, and other fixtures of the outdoor seating area. Additional design standards and submission requirements are noted in the section specific to each license type;
- (2) A plan for the control of litter, the removal and storage of garbage, the cleaning of fixtures, and the cleaning of the grounds on and around which the outdoor dining area is located;
- (3) When applicable, proof of compliance with new jersey state alcoholic beverage control rules and regulations governing extension of premises for the sale, service and consumption of alcoholic beverages;
- (4) Written consent of the owner of the premises, if other than the applicant;
- (5) Proof of insurance. A certificate of liability insurance in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 in aggregate, naming the City of Hoboken and its agents, servants, and employees as additional insured, shall be provided. The policy shall be occurrence-based coverage. The policy shall remain in full force and effect during the licensing period and shall include a thirty-day cancellation clause that shall provide notice to the City Zoning Officer; and
- (6) Application fees, and, for parklets only, the required maintenance bond.
- (7) Parklet and StrEATery applications. Following submission of a complete application and issuance of a zoning permit for approval of a new Parklet or strEATery, the Parklet or strEATery applicant shall provide notice, via certified mail, in a form consistent with N.J.S.A. 40:55d-12b. If, pursuant to subsection f herein, after 20 days of the certified mailing date, no appeal has been filed with the Governing Body and Zoning Officer through the Municipal Clerk, permits for construction of the parklet or strEATery may be issued, and construction of the parklet or strEATery may commence.

C. License renewal, annual. Applicants who, at the time of adoption of this chapter, have a parklet or who have been licensed by the City previously for operation of a strEATery or sidewalk cafe shall apply annually for renewal of their license(s), on forms so provided by the city. Renewal applications shall be accompanied by, at minimum:

- (1) Photographs of the prior year's setup;
- (2) Written consent of the owner of the premises, if other than the applicant;
- (3) Proof of insurance. A certificate of liability insurance in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 in aggregate, naming the City of Hoboken and its agents, servants, and employees as additional insured, shall be provided. The policy shall be occurrence-based coverage. The policy shall remain in full force and effect during the licensing period and shall include a thirty-day cancellation clause that shall provide notice to the city zoning officer; and

(4) License renewal fees; and, for first-time renewal for existing parklets, the required maintenance bond.

D. Approval. The Municipal Zoning Officer or other authorized City Officer shall be the licensing authority. Upon receipt of an application, the Zoning Officer or other authorized City officer shall review the outdoor dining application for completeness, subject to the requirements set forth in this Chapter and any other applicable laws. Once the application is deemed complete, the zoning officer or other authorized city officer shall issue a license or zoning permit, as the case may be, or a denial. The zoning officer or other authorized city officer may deny an application based on current violations or any other health, safety, fire, use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit that is not otherwise directly superseded by this chapter. An application under this chapter shall not be considered a variance under the municipal land use law (N.J.S.A. 40:55d-1 et seq.).

E. Denial; revocation; suspension. The City of Hoboken may deny, revoke, or temporarily suspend the license of any applicant or licensee that violates, or is not in compliance with, any provision of this Chapter or any provision of a law, ordinance, or regulation related to the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control, and the City of Hoboken may also deny, revoke, or temporarily suspend the license of any applicant or licensee based on any action taken against the applicant or licensee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation under its jurisdiction. If a parklet applicant is issued a denial of a permit or a revocation or suspension of a permit, the parklet applicant/permittee may file an appeal as set forth in subsection f. The parklet appellant shall provide notice of its pending appeal, via certified mail, in a form consistent with N.J.S.A. 40:55d-12b, including the time and date of the appeal or instructions where such information may be obtained.

F. Appeal. An appeal for a review of any approval, denial, revocation, or suspension issued by the Zoning Officer or other authorized City Officer may be filed through the Municipal Clerk with the Governing Body of the municipality, with a copy forwarded to the Zoning Officer. The Governing Body, or a designee if so delegated by the governing body, shall conduct a hearing within 30 days of the appeal properly being filed with the Municipal Clerk, unless an extension is agreed to between the Governing Body and the appellant. The Governing Body shall thereafter render a decision. The decision of the Governing Body or its designee shall be based on the criteria in this Chapter 138, to the extent applicable.

G. One-time appeal opportunity. For all parklet and strEATery approvals that were granted between March 1, 2020, and the effective date of this chapter, an appeal for review of any such approval may be filed as set forth in subsection f above, within 20 days of the effective date of this chapter. After the expiration of that twenty-day period, all such prior approvals are final and no longer subject to review under the appeal process set forth in subsection f, above.

§ 138-4 General provision applicable to all outdoor dining facilities.

A. Public health procedures. Any restaurant, bar, distillery, or brewery operating pursuant to this chapter shall follow, maintain, and enforce protocols promulgated by any executive order of the governor or mayor, or by the new jersey commissioner of health, in response to any public health emergency concerning social distancing and use of personal protective equipment during the period such protocols are in effect.

B. Expiration of yard provisions. Notwithstanding the provisions of any law to the contrary, use of a rear and/or side yard by a restaurant, bar, distillery, or brewery shall expire November 30, 2022, after which date continued use of a yard for dining shall require approval by the planning board or board of adjustment, as the case may be.

C. Emergency or scheduled construction removal. The City reserves the right to order the temporary suspension of outdoor dining and the removal of all fixtures associated with any restaurant, bar, distillery, or brewery's sidewalk cafe, or streateries, or parklet, at the licensee's expense, from the public sidewalk or roadway because of road or utility construction, predicted high winds or severe weather, the need to remove snow or ice from the sidewalks and streets, or any other public emergency that may arise.

D. Restoration of right-of-way. The licensee of any outdoor dining facility and/or the owner of the property on which the outdoor dining facility is located shall be jointly and severally responsible for restoration of the sidewalk or street upon the expiration or termination of the license. As such, the licensee and/or property owner, at either of his/her own expense, shall remove all fixtures and constructions associated with the outdoor dining facility, and shall restore the sidewalk or street, as nearly as practicable, to a condition that is consistent with adjacent sidewalks or streets. If the licensee or property owner fails to remove the aforementioned improvements, the City may remove such improvements and make such repairs as may be necessary to restore the sidewalk or street, at the sole cost and expense of the property owner, and the cost of removal, repair, and/or replacement shall be a municipal lien against the property owner.

E. Hours of operation. Hours of operation for parklets, strEATeries, sidewalk cafes, and rooftops, where permitted in association with a restaurant, bar, distillery, or brewery, shall be between the hours of 8:00 a.m. And 11:00 p.m., Sunday through Wednesday, and between 8:00 a.m. And 12:00 midnight Thursday, Friday, and Saturday. On three-day weekends where Monday is a federal holiday, hours of operation for Sunday may extend to midnight. The sale and service of alcoholic beverages shall adhere to the times set forth in Chapter 68, alcoholic beverages, of the municipal code of the City of Hoboken, or other restrictions placed on the business in approvals granted by a land use board.

F. Hours of operation. Hours of operation for outdoor dining in rear or side yards associated with a restaurant, bar, distillery, or brewery shall be between 10:00 a.m. And 10:00 p.m. Daily until November 30, 2022, at which time all such operation is prohibited.

G. Music and AV. Live acoustic music is permitted but shall be limited to 4:00 p.m. To 10:00 p.m. Weeknights; and 12:00 noon to 10:00 p.m. Saturday and Sunday. The playing of any other audio from a recording, streaming service, or cable or internet broadcasting service in outdoor spaces or on public sidewalks is prohibited. Television or video screens, where permitted, shall be muted, without sound, at all times.

H. Signage. No flashing or moving lights or additional signage shall be part of the outdoor dining setup, except as permitted herein. Freestanding signs such as a-frames permitted by § 196-31 may continue to be used but shall not obstruct the required pedestrian ingress and egress.

I. Heaters. The licensee of an outdoor dining facility may apply to the Hoboken Fire Department for approval to use propane heaters in the outdoor dining area. Such approval shall specify the number of heaters approved by the fire department and what provisions are to be made for

storage of the propane tanks when not in use. A copy of the Hoboken Fire Department approval shall be filed with the Zoning Officer.

J. Food and beverage service. No food or beverages shall be prepared in the outdoor dining areas. All food and beverage preparation shall take place within the business premises and served or carried out to the outdoor seating area.

K. License display. Each applicable license shall be displayed and/or readily available for inspection on the business premises.

L. No smoking. As an extension of the business premises, there shall be no smoking in outdoor dining areas.

M. Violation; fines. Any person who shall violate any provision of this chapter pursuant to the authority granted by this Chapter shall, upon conviction or guilty plea in the Municipal Court of Hoboken, or other court of competent jurisdiction, be punished by a fine of not less than \$500 for the first offense; \$1,000 and ten-day license suspension for the second offense; and \$2,000 and license revocation upon a third offense.

§ 138-5 Provisions specific to Sidewalk Cafes.

A. The term of an annual sidewalk cafe license shall commence on January 1 and expire on December 31 of each year. A sidewalk cafe license is not transferable to another person or business entity. There shall be no proration of license fees.

B. A clear, unobstructed pedestrian pathway, not less than six feet wide, must be maintained at all times on all public sidewalk wider than 10 feet. On sidewalks that are less than 10 feet wide, a walking path of not less than four feet wide must be maintained.

C. Where the sidewalk is 20 feet or more wide, the sidewalk cafe may occupy the space immediately in front of the restaurant as well as the amenity strip along the curb with the pedestrian pathway in between. Existing street amenities shall not be disturbed or obstructed by cafe seating. Seating within the amenity strip shall be limited to a maximum width of four feet, measured from the curb edge into the sidewalk.

D. No fixtures associated with a sidewalk cafe, including railings, shall be permanent or semi-permanent unless expressly approved by the zoning officer and certified in writing.

E. All fixtures associated with the sidewalk cafe shall be removed from the public sidewalk at the conclusion of each business day except for the period between memorial day and labor day, when delineating barriers and furniture may remain on the sidewalk and safely secured in place overnight. Notwithstanding the preceding, all lightweight equipment shall be removed, and umbrellas and canopies shall be closed and/or removed each evening.

F. No sidewalk cafe fixtures may be set up or stored on the sidewalk when the sidewalk is snow-covered or when snow prevents the maintenance of the required pedestrian walking path.

G. Fees. Effective January 1, 2022, there shall be a \$50 application fee and an annual user fee of \$2 per square foot of sidewalk encumbered. Effective January 1, 2023, the annual user fee shall be \$2.25 per square foot.

H. Required specifications.

(1) Entrance and exit doorways for any residential or nonresidential use located above the restaurant, bar, distillery, or brewery, including a straight unobstructed pathway from such door to the pedestrian lane of the sidewalk, shall be maintained free of sidewalk cafe fixtures.

(2) Sidewalk cafes may extend in front of adjacent properties on either side of the business establishment, up to an additional 25 feet total, provided: a) the owner of the adjacent property agrees in writing to allow the business to operate a sidewalk cafe in front of their property; b) any commercial tenant(s) occupying street-level space within the adjacent property shall provide written consent; c) the liability insurance includes the adjoining property, property owner, and tenants as additional insureds; and d) a clear path of ingress and egress is maintained to entrances and exits of the adjoining property.

(3) Sidewalk cafes that accommodate eight or more patrons should be separated from the pedestrian walking path by a temporary barrier such as a fence or planters. Where a fence is used, the fence should be: a) freestanding and stable enough to not be easily tipped over; b) not less than 36 inches or more than 42 inches in height; and c) made of quality materials such as metal, wood, and/or canvas that can be easily maintained in good condition throughout the season. Planters or plant material that are part of a cafe barrier shall be fully within the sidewalk cafe area and shall not encroach on the pedestrian pathway.

(4) Where drilled holes already exist in the sidewalk for the installation of temporary barriers, they may remain and continue to be used as is until either a) the fence is replaced, or b) the sidewalk cafe is no longer operated, then the sidewalk shall be repaired and the holes filled in. No new holes shall be drilled into the sidewalk for sidewalk fencing. All holes drilled in the sidewalk shall be covered by the business operator when not in use.

(5) Sidewalk cafes shall be at the same elevation as the sidewalk.

(6) Overhead coverings, such as retractable awnings, umbrellas, or pop-up canopies are encouraged but are not required. All coverings shall be contained within the designated area of the allowed sidewalk cafe so as not to interfere with the pedestrian pathway and be closed and/or removed from the sidewalk overnight.

(7) Except for business identification of the licensee that is incorporated into a temporary barrier, no other signage or advertising shall be part of a sidewalk cafe setup.

§ 138-6 Provisions specific to parklets.

A. Term of licenses. The term of an annual parklet license shall commence on January 1 and expire on December 31 of each year. The parklet license is not transferable to another person or business entity. There shall be no proration of license fees.

B. Bond requirement. Applicants for new parklet construction or for first license renewal following adoption of this chapter shall provide the City of Hoboken a one-time maintenance bond at a rate of \$15 per square foot to cover parklet removal and/or street repairs in the event that the licensee responsible for the parklet fails to remove the parklet upon closure or fails to repair the right-of-way returning it to its original condition. The bond will be carried from year to year for the life of the parklet. When a parklet is no longer in use and has been removed by the licensee, the licensee may request, in writing, that the bond be returned. The city engineer will conduct an inspection of the premises and shall recommend to the city council that the bond, or any balance thereof as the case may be, be released and the funds returned to the licensee.

C. Use of the right-of-way. The parklet may encumber up to but not more than the width of street frontage adjacent to the restaurant, bar, distillery or brewery, unless express written consent, in a form approved by the City of Hoboken, has been obtained from the adjacent property owner and from any commercial tenant(s) occupying street-level space within the adjacent property.

D. Other approvals. No parking space, parking lane, or other portion of the public street shall be encumbered without the consent of the director of transportation and parking and the City Engineer. Use of a county roadway shall also require consent, approval, or waiver from the Hudson County Division of Planning.

E. No-parking signs. It is the responsibility of the licensee to request temporary no-parking signs as needed to reserve curbside space.

F. Right to limit parklets per block. The city reserves the right to limit the number of parklets per block based on available space and the need to maintain publicly accessible curbside space on each block for other uses.

G. Location. Parklets shall not be located: over a gas line; within 25 feet of a crosswalk measured from the nearest pavement markings; within 10 feet of a fire hydrant; or in handicap spaces or loading zones.

H. Cleaning of the right-of-way. The licensee of the parklet shall be responsible for maintaining the cleanliness of the sidewalk and street for, at a minimum, two feet in all directions around the parklet, and for the removal of snow and ice, at minimum, four feet in all directions around the parklet or otherwise as directed by the department of environmental services.

I. Fees. Effective January 1, 2022, new parklet applications shall be accompanied by a \$250 application fee; parklet renewal applications shall be accompanied by a \$100 application/inspection fee. All licensees shall be subject to a monthly user fee for occupancy of the parking lane according to the following schedule:

(1) For 2022: \$2.25 per square foot per month.

(2) For 2023: \$2.50 per square foot per month.

(3) Thereafter, user fees may be amended annually at the discretion of the Director of Transportation and Parking in a manner consistent with parking meter rates.

J. Nonpayment of user fees. Operators of parklets that fail to remit monthly user fees in a timely manner shall, after 60 days, receive a one-time warning notification. After 90 days of nonpayment, a violation will be issued and/or the operator's license may be suspended or revoked. If revoked, the parklet shall be removed at the operator's expense.

K. Required specifications (minimum).

(1) Architectural drawings shall be required for parklets providing: a) construction details; b) dimensions; c) calculation of vertical wall area, square footage percentage of open vs. Enclosed wall area; d) electrical service and heat/cooling specifications, as applicable; e) snow and wind load calculations; f) drainage accommodations for the platform and the street; g) location of all utility service lines; h) location of adjacent travel lanes, bike lanes, sidewalks, crosswalks, ada curb ramps, tree pits, utility poles, and any other right-of-way appurtenances with dimensions and distances from each; i) handicap accessibility details; j) specifications for all construction

materials to be used; k) safety measures; l) seating plans and proposed occupancy; and m) signage specifications.

(2) A parklet shall be constructed of quality building materials like wood, wood composite, metal, fiberglass, corrugated plastic or similar, and shall incorporate a safety barrier at the leading end of the platform facing oncoming traffic. Lightweight materials like plastic sheeting, vinyl, or fabric are not permitted.

(3) Maximum width shall be seven feet from the curb for a parallel parking lane, or 14 feet from the curb for an angled parking lane.

(4) Parklets shall be constructed in sections of not more than seven feet wide and six feet long that can be assembled and disassembled on-site to facilitate street or utility work, or temporary removal in case of an emergency.

(5) The finished floor of the deck platform shall be level with the top of the curb.

(6) Decks shall be enclosed on the three sides that abut the street by a built-in planter, benches, low wall or railing not to exceed 42 inches in height. If planters are utilized, the dimension of that planter must be included in the calculation of the overall parklet dimensions. The side facing the sidewalk shall be open with the exception of supporting posts for a roof or canopy.

(7) Removable umbrellas, awnings or pop-up canopies may be included in the parklet design, provided: a) there is no reduction in vehicular or pedestrian visibility; b) no part of the umbrella, awning, or canopy extends into the travel lane or over the curb; c) the umbrella, awning, or canopy is anchored securely against wind; and d) the umbrella, awning or canopy is closed and/or removed overnight.

(8) A roof, where permitted, shall not exceed nine feet from sidewalk to its highest point.

(9) Plexiglass or other clear plastic screening is permitted on the three enclosed sides that abut the street, provided there is at least one foot of ventilation space between the top of the screen and the roof structure. The sidewalk-facing side shall remain open.

(10) If the parklet will have power or lighting, an electrical plan must be included with the architectural drawings submitted with the application.

(11) Except for business identification of the parklet licensee that is incorporated into the walls or railings of the parklet and any required signs associated with public health guidance, no promotion banners or advertising signage shall be part of a parklet setup. Identification signs or logos shall be limited to a maximum of one on each end, and three on the street side spaced 20 feet on center; the size of each identification should not exceed 16 square feet per occurrence.

(12) Where nonfixed furniture and fixtures are part of a parklet setup, that furniture and those fixtures must be able to be stored securely within the parklet or removed to a safe location nightly.

(13) Parklet operators are responsible for baiting beneath and/or immediately adjacent to the parklet to control vermin.

L. Occupancy. The maximum occupancy for the parklet, approved by the zoning officer, shall be displayed on the parklet.

M. Storage limitations. Tables, chairs and heaters that are part of the outdoor dining setup may be secured and stored in the parklet during the months when the parklet is in use. The parklet shall not be used to store any other furniture, equipment or materials from the business that are not part of their approved outdoor dining setup. During the off-season when the parklet is not in daily use, any tables, chairs, and heaters that are a part of the outdoor dining setup may be secured and stored in the parklet, provided that public access can be restricted.

N. Annual inspection. All parklets shall be subject to an annual inspection. Any parklet found to be unsafe for public use or habitation, or that fails to meet the above specifications, will not be relicensed and may not be occupied until it is brought into compliance.

§ 138-7 Provisions specific to strEATeries.

A. Term of license. The term of a seasonal strEATery license shall begin on March 1 and end on November 30 of each year. The strEATery license is not transferable to another person or business entity. There shall be no proration of license fees.

B. Use of right-of-way. A strEATery may encumber up to but not more than the width of street frontage adjacent to the restaurant, bar, distillery, or brewery, unless express written consent, in a form approved by the City of Hoboken, has been obtained from the adjacent property owner and from any commercial tenant(s) occupying street-level space within the adjacent property.

C. Other approvals. No parking space, parking lane, or other portion of the public street shall be encumbered without the consent of the director of transportation and parking and the city engineer. Use of a county roadway will also require consent, approval, or waiver from the Hudson County Division of Planning.

D. No-parking signs. It is the responsibility of the licensee to request temporary no-parking signs as needed to reserve curbside space.

E. Right to limit strEATeries per block. The city reserves the right to limit the number of strEATeries per block based on available space and the need to maintain publicly accessible curbside space on each block for other uses.

F. Location. StrEATeries shall not be located within 25 feet of a crosswalk, measured from the nearest pavement markings, 10 feet of a fire hydrant, or in handicap spaces. Use of loading zones is permitted beginning one hour after the zone's posted loading hours; during posted hours of loading zone use, the loading zone shall remain clear of obstruction.

G. Cleaning of the right-of-way. The licensee of the strEATery shall be responsible for maintaining the cleanliness of the sidewalk and street for, at a minimum, two feet in all directions around the strEATery.

H. Snow-covered streets and sidewalks. StrEATeries may not be set up when there is snow on the street or sidewalk.

I. Fees. Effective January 1, 2022, all strEATery applications, new and renewal, shall be accompanied by a \$100 application fee. All licensees shall be subject to a monthly user fee, charged per approved days of use, for occupancy of the parking lane according to the following schedule:

(1) For 2022: \$2.25 per square foot per month.

(2) For 2023: \$2.50 per square foot per month.

(3) Thereafter, user fees may be amended annually at the discretion of the director of transportation and parking in a manner consistent with parking meter rates.

J. Nonpayment of user fees. Operators of strEATeries that fail to remit monthly user fees in a timely manner shall, after 60 days, receive a one-time warning. After 90 days, a violation will be issued and/or the operator's license may be suspended or revoked.

K. Equipment storage. All fixtures associated with the strEATery shall be removed from the street at the conclusion of each business day to facilitate street cleaning. Barriers and larger fixtures may be removed to the amenity zone of the adjacent sidewalk, provided they can be safely stored there and provided they do not, in any way, obstruct the flow of pedestrian traffic or obstruct access to the curb for passenger vehicles. Where expressly approved by the zoning officer, the director of environmental services, and the director of transportation and parking, an exception may be granted to permit a strEATery setup to remain on the street overnight; in cases where such an exception is granted, the strEATery shall pay the same fees as a parklet.

L. Required specifications.

(1) A detailed sketch or architectural drawings shall accompany the application that include, at minimum: a) dimensions; b) electrical service and heat/cooling specifications, if applicable; c) location of all utility service lines; d) adjacent travel lanes, bike lanes, sidewalk, crosswalk, ada curb ramps, tree pits, utility poles, and any other right-of-way appurtenances with dimensions and distances from each; e) handicap accessibility details; f) specifications for all materials to be used; g) safety measures; h) seating plans and proposed occupancy; and i) signage specifications.

(2) A strEATery shall be delineated from the adjacent parking spaces and street using city-approved temporary crowd control barriers, bollards, poles, planters or other substantial and easily visible means approved by the city.

(3) For a strEATery adjacent to parallel parking spaces, wheel stops are required three feet from the leading side (facing oncoming traffic) and 4.5 feet on the trailing side of the strEATery.

(4) A minimum of one ADA-compliant portable ramp shall be provided. For strEATeries exceeding 40 feet in length, two shall be provided.

(5) Maximum width shall be seven feet from the curb for a parallel parking lane, or 14 feet from the curb for an angled parking lane.

(6) The road surface shall be covered with synthetic turf, solid color indoor-outdoor carpeting, or other approved street covering.

(7) Removable tables, chairs, or other seating options shall be provided. No table shall accommodate more than eight persons.

(8) Removable umbrellas, awnings or pop-up canopies may be included in the strEATery design, provided: a) there is no reduction in vehicular or pedestrian visibility; b) no part of the umbrella, awning, or canopy extends into the travel lane or over the curb; c) the umbrella, awning or canopy is anchored securely against wind; and d) the umbrella, awning or canopy is closed and/or removed overnight.

(9) If the strEATery is to have power or lighting, an electrical plan must be submitted with the application. No extension cords shall cross over or above the sidewalk unless approved by the electrical subcode official and/or construction official.

(10) Except for business identification of the licensee that is incorporated into the temporary barrier and any required signs associated with public health guidance, no other business identification signage or advertising shall be part of a strEATery setup.

§ 138-8 Rights; privileges; immunities.

A. The City of Hoboken reserves all rights, privileges, and immunities concerning its inalienable ownership over all sidewalks, streets, public lanes, alleys or other public grounds within the city, whether or not any projection or encumbrance has been permitted to be erected on the same, without any waiver of such rights, privileges, or immunities, whether expressed or implied.

B. The City of Hoboken expressly reserves the right to inspect outdoor dining establishments and to require, at the owner's expense, the correction of any violation of the conditions set forth in this chapter, or to require, at the owner's expense, the removal of any or all encroachments of the public right-of-way, and other such encumbrances upon any sidewalk, street, public lane, alley, or other public ground that present a danger to the health, safety, and welfare of the public.

C. As part of the petition process, the applicant for any license or revocable consent must agree that if a license or consent is granted, it shall defend, protect, indemnify, and hold harmless the City of Hoboken, its officers, agents, and employees from and against any and all claims, causes of action, injuries, losses, damages, expenses, fees, and costs arising out of, or which may arise out of, the grantee's use of the public right-of-way.

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this ordinance, but shall remaining in effect; it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the code.

The City Clerk and the Corporation Counsel are authorized and directed to change any chapter, article and/or section number of the code of the City of Hoboken in the event that the codification of this ordinance reveals that there is a conflict between the numbers and the existing code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Meeting Date: October 4, 2023

Approved as to Legal Form:

Brian Aloia

Brian Aloia, Esq. Corporation Counsel

Vetoed by the Mayor for the following reasons:

Please see attached - Ravis.

Adopted by the Hoboken City Council
By a Vote of 5 Yeas to 4 Nays
On the 18 day of Oct., 2023

James J. Farina

James Farina, City Clerk

-or-

Approved by the Mayor
On the ___ day of ___, 2023

Ravinder S. Bhalla, Mayor

✓ Vote Record - CC - Ordinance						
		Yes/Aye	No/Nay	Abstain/Alternate	Absent	
<input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading <input type="checkbox"/> Tabled <input type="checkbox"/> Adopted <input type="checkbox"/> Failed	Phil Cohen	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Mike DeFusco	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	James Doyle	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Tiffanie Fisher	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Jennifer Giattino	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Joe Quintero	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Ruben Ramos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Michael Russo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Emily Jabbour	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	