

MOAB CITY PLANNING COMMISSION
May 13, 2021
WORK SESSION

To: Planning Commission
From: Nora Shepard, Planning Director
Date: May 13, 2021
Subject: Proposed Code Text Amendments to address Outdoor Dining and Parklets

Background:

Title 17 of the MMC currently does not address outdoor dining. The City has allowed “Temporary Parklets” to allow outdoor dining in the City Right of Way (ROW), subject to various conditions terms and conditions. This was an administrative process that was primarily to allow restaurants to be able to serve customers safely during the COVID emergency provisions. The City allowed one of these last year and this year. The emergency provisions allowing parklets is set to expire on June 30, 2021. The City Council supported this effort and has directed staff to work on Land Use Code amendment to allow continued use of parklets.

Chapter 17 (Zoning) of the MMC currently does not address outdoor dining at all, whether on site or in City ROW. At one time, outdoor dining was a conditional use, but the City did away with Conditional Uses and all related standards.

Moab’s Main Street is a state highway, restricting outdoor dining and parklets. Many restaurants on Main Street already have outdoor dining on the same property as the restaurant use. There are other restaurants in Moab that do not front on Main Street (Hwy 191). Those restaurants could qualify for outdoor dining or, in some cases, parklets.

On-Premises Outdoor Dining

There are several restaurants that currently have outdoor dining on-site. The intent is to allow those to continue and to allow additional opportunities as a permitted use. The staff has reviewed all of the current restaurant business licenses to determine where the restaurants are in Moab and to help in determining whether or not they have capacity on-site to provide outdoor dining. When a restaurant has the area to build temporary or permanent outdoor dining, they should be permitted to do so, with specific development standards such as:

- Continue to maintain the required parking and facilities for those with disabilities
- The existing restroom facilities are adequate to serve the additional seating.
- No advertising is allowed
- Must meet building permit requirements and must obtain a building permit, as required
- Lighting must meet the dark sky provision of the MMC
- Health and Fire requirements are met

There are two types of on-site outdoor dining that should be considered: Permanent outdoor dining that could be modified to be used year-round and temporary, seasonal dining that would be erected and used during good weather. We have examples of both throughout Moab. The intent is to allow both types, subject to development standards.

The process would be handled through the application and issuance of a building permit. The building permit requires approval by building, planning, public works, health department and fire district.

Proposed Changes to the Code

Section 1: Add definitions to 17.06 to include:

Restaurant with Outdoor Dining, Permanent - Outdoor dining, permanent - Any restaurant with an outdoor eating and drinking area that is associated with and incidental and subordinate to a primary use of that parcel or lot. The outdoor dining is constructed as a part of the primary building, as an addition to the building or a separate structure that is a permanent structure. The outdoor dining areas may include design features to allow year-round use

Restaurant, with Outdoor Dining, Seasonal - Any restaurant with an outdoor eating and drinking area that is associated with and incidental and subordinate to a primary use of that parcel or lot. This use may include removable tables, chairs, planters, or similar features and equipment.

Section 2: Modify the C-2 Commercial – Residential Zone to allow Outdoor Dining: Add Outdoor Dining and associated development standards to 17.21.020 Permitted Uses and Regulations, as follows:

Restaurant with Outdoor Dining, Permanent

- a. All Outdoor Dining must comply with the applicable Building, Health and Fire Codes
- b. Outdoor Dining must not encroach into the zone required setbacks.
- c. Additional parking will be required to include the additional floor area
- d. Parking area shall be an all-weather, durable surface such as concrete, asphalt or sealed gravel that will not generate dust or deposit gravel on paved roadways.
- e. Noise, odor and glare shall be contained on the property. All operations shall comply with the Noise Provisions of the MMC.
- f. All additional lighting will have to comply with the Dark Sky lighting provisions of the code.
- g. Landscaping, screening, and fencing shall be installed and maintained to mitigate impacts on surrounding residential uses.
- h. Outside storage of equipment, materials, and supplies shall be contained and located within a building or a sight obscuring fence; Vehicular ingress and

egress traffic patterns shall be designed to not impede existing traffic flows and provide adequate interior circulation.

- i. No amplified music will be allowed
- j. Hours of operation will not exceed seven a.m. to ten p.m.
- k. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.

Restaurants with Outdoor Dining, Seasonal

- a. All Outdoor Dining must comply with the applicable Building, Health and Fire Codes
- b. Outdoor Dining must not encroach into the zone required setbacks.
- c. Noise, odor and glare shall be contained on the property.
- d. All additional lighting will have to comply with the Dark Sky lighting provisions of the code.
- e. Landscaping, screening, and fencing shall be installed and maintained to mitigate impacts on surrounding residential uses.
- f. Outside storage of equipment, materials, and supplies shall be contained and located within a building or a sight obscuring fence; Vehicular ingress and egress traffic patterns shall be designed to not impede existing traffic flows and provide adequate interior circulation.
- g. No amplified music will be allowed
- h. Hours of operation will not exceed seven a.m. to 10 p.m.
- i. Temporary structure such as umbrellas, planters, tents, or temporary barriers are allowed. Such items shall be properly Space heaters are permitted as long as they are at least 2 feet away from any flammable materials. Tents may be allowed if approved by the Moab Building Official and by Fire Officials. Outdoor cooking is not permitted. Coolers or other displays may be allowed but have to be easily moved and follow health guidelines for distribution.
- j. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.

Section 3: Modify the C-3 Central Commercial Zone to allow Outdoor Dining:
Add Outdoor Dining and associated development standards to 17.24.020 Permitted Uses and Regulations with associated standards *as shown for Section 2 above.*

Section 4: Modify the C-4 General Commercial Zone to allow Outdoor Dining:
Add Outdoor Dining and associated development standards to 17.27.020 Permitted Uses and Regulations with associated standards *as shown for Section 2 above.*

Parklets

Parklets are temporary outdoor dining in the City ROW. They were allowed initially as a response to the COVID restrictions as a way to help restaurants to continue to be able to serve meals. That was done as a short-term administrative process. These code amendments would allow parklets through changes in the Land Use Code. They have specific standards that must be approved by Planning, Building, Public Works, Health and Fire. Many of the standards are similar to a Restaurant with Outdoor Dining, Temporary. There are added standards since these would be on City Property. There will be a separate application form and standards that applicants must use to apply for such a use on City Property. Parklets will only be considered on properties that do not have adequate space for outdoor dining on the property.

Proposed Changes to the Code:

Section 1: Add definitions to 17.06 to include:

Parklets - Parklets are on-street parking spaces that are temporarily converted for to allow temporary, seasonal outdoor dining.

Section 2: Parklets

- a. Parklets on City Property will only be considered if there is not adequate area on the property to accommodate outdoor dining. If outdoor dining already exists, the property is not eligible for a Parklet.
- b. Sidewalks and Public Rights of Way must maintain an adequate pedestrian flow. The recommended width of the sidewalk is 72 inches. The placement of the outdoor dining shall maintain access to fire hydrants, crosswalks, public utility access and building entrances. A 15' Fire lane must be maintained at all times.
- c. Width shall not exceed the frontage of the business property without written permission from the adjacent property owner. Adjacent properties are strongly encouraged to coordinate. A 72" pedestrian path (preferred width) should be maintained at all times. Each business is responsible for ensuring compliance with fire/emergency access and ADA requirements.
- d. Temporary structure such as umbrellas, planters or temporary barriers are allowed, but shall not be permanently affixed to public property. Such items shall be properly weighted and cannot be more than 80 inches above the sidewalk. Space heaters are permitted if they are at least 2 feet away from any flammable materials. Tents may be allowed if approved by the Moab Building Official and by Fire Officials. Outdoor cooking is not permitted. Coolers or other displays may be allowed but must be easily moved and follow health guidelines for distribution. The City has the right to ask that the parklet be removed within 24 hours if necessary, for public health, safety, or welfare purposes.
- e. All businesses are responsible for their own trash, waste, and recycling. The site must be kept clean. In the event of a strong storm causing minor flooding, the business owner is responsible for cleaning up any debris, as necessary.
- f. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants

with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.

- g. Main Street (Hwy 191) is a state highway, and the City does not have the authority to grant any activities in the State Right of Way.
- h. All business activities shall be governed by the City's noise and nuisance provisions. No amplified music will be allowed.
- i. Parklets may be used during normal dining hours. Use of the outdoor dining area must end at 10:00pm.
- j. Parklets are allowed seasonally, from April 15th through October 31st.
- k. Other Design Criteria:
 - 1. Maximum encroachment into street: 12 feet from edge of gutter
 - 2. No more than width of storefront, if parklet will be in front of the business in the City ROW
 - 3. Minimum remaining lane width: 15 ft (Can be reduced on a case-by-case basis)
Minimum remaining sidewalk width: 72 inches preferred (Can be reduced on a case-by-case basis)
 - 4. Enter/Exit outdoor dining from sidewalk only, not from street
 - 5. Safety lighting is required, signage and reflective materials are allowed and encouraged
 - 6. All street furniture must be secure to withstand high winds
 - 7. All street furniture should be secured after closing
 - 8. Must follow Southeast Utah Health Department (SEUHD) requirements
 - 9. Enclosures should be able to be removed within 24 hours, if needed and required by City
- l. A License Agreement shall be required as specified in Parklet information application and packet
- m. Submittal requirements are stated in the Parklet Information and packet and shall include:
 - 1. Completed Application Form
 - 2. Site Plan (8.5" by 11" minimum size) showing
 - i. Parcel boundary lines
 - ii. Drives, Streets, Rights-of-Way, Existing Buildings, Parking including widths of pavement, curb and gutter and dimension of the Right of Way.
 - iii. Location of proposed outdoor dining area (with dimensions)
 - 3. Plans that indicate the following:
 - i. Location of tables, general table dimensions, spacing between tables (feet), spacing between tables and public walkways (feet), and number of seats per table.
 - ii. ADA accessible routes between the outdoor dining space and indoor space, noting location of restrooms.
 - iii. Occupancy of outdoor dining space meeting applicable public health guidelines.
 - iv. Location of any additional outdoor structures such, kiosks, tents or shade structures.

- v. All parklets are required to install barriers on all sides. The only access to the parklet will be from the sidewalk.
- vi. Description of what type of barriers you will use to define the parklet space. Materials can include Jersey Barriers or similar barriers, planters, and fences (that can be removed within 24 hours, if necessary) Steel tubing or similar materials.
- 4. Signage and Lighting: Lighting Plan Consistent with Moab's Dark Sky Ordinance. For safety purposes, it is important that the parklet be lighted and visible, but the lighting must meet the lighting requirement on our Code (Dark Sky Compliant Lighting).
- 5. Canvas or coated fabric is allowed.
- 6. Notification of adjacent property owners: This process requires that the applicant communicate with all adjoining property owners. The application shall include evidence of how this outreach was done and resulting concerns raised by the neighbors.

Section 3: Modify the C-3 Central Commercial Zone to allow Parklets and associated development standards to 17.24.020 Permitted Uses and Regulations *as shown in Section 2 above*

Role of the Planning Commission

The Planning Commission is being asked to review these draft standards and discuss questions, comments or concerns you may have. At the next Planning Commission meeting, a more formal draft ordinance will be presented followed by a Public Hearing as required by section 17.04 of the MMC. The Planning Commission will be asked to make a recommendation to the City Council on this City initiated code amendment.