

INTRODUCED: February 8, 2016

AN ORDINANCE No. 2016-026

To amend and reordain ch. 24, art. II of the City Code by adding therein a new div. 9, consisting of new sections 24-251 through 24-258, and to amend Appendix A of the City Code by adding therein new fees for sections 24-252(d) and 24-254(b), for the purpose of permitting pedestrian enhancements within the right-of-way and excluding pedestrian enhancements from the general encroachment provisions set forth in the City Code.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: FEB 22 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 24, Article II of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** Division 9 consisting of sections numbered 24-251 through 24-258, as follows:

DIVISION 9.

PEDESTRIAN ENHANCEMENTS

Sec. 24-251. Definitions.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: FEB 22 2016 REJECTED: _____ STRICKEN: _____

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

Bike corral means a portion of a curbside parking lane that is closed to motor vehicle parking and equipped with bike racks so as to permit the parking and securing of bikes.

Director means the Director of Public Works and, except as provided otherwise in Section 24-257 pertaining to pedestrian enhancement revocation, includes the Director's designee.

Parklet means a removable platform made available to the public for recreational use that occupies a portion of a parking lane that is closed to motor vehicle parking.

Pedestrian enhancement means either a bike corral or parklet.

Sec. 24-252. Pedestrian enhancement permit—Application, approval and general provisions.

(a) *Permit required; enforcement.* Subject to the provisions of this division, a pedestrian enhancement may be located within a portion of the right-of-way only upon approval of a pedestrian enhancement permit by the Director. No person shall establish a pedestrian enhancement unless such person has obtained a pedestrian enhancement permit, and no other use of the area devoted to the pedestrian enhancement shall be permitted, except normal use as a right-of-way. The design, operation, and use of a pedestrian enhancement shall comply with the approved permit. It shall be the responsibility of the Director to enforce the provisions of this division.

(b) *Application.* Application for a pedestrian enhancement permit shall be made to the Director on such application form and subject to such written procedures as the Director may establish for that purpose.

(c) *Plan and other materials to accompany application.* The following plan and other materials shall be submitted in triplicate with the application for a pedestrian enhancement permit:

(1) A detailed plan, endorsed by a person licensed by the Commonwealth as a professional engineer, drawn to scale that clearly illustrates the location and design of the proposed pedestrian enhancement. Where applicable, the plan must show all of the following:

a. The layout and arrangement of the proposed pedestrian enhancement, including its overall dimensions and the type, design, and placement of any barriers and furnishings such as, but not limited to, tables, chairs, umbrellas, planters, bike racks and any other appurtenances to be located within the boundaries of the proposed pedestrian enhancement.

b. The following sidewalk conditions and features located within the boundaries of the proposed pedestrian enhancement and within ten feet of such boundaries: existing right-of-way paving material and width of the right-of-way in which the proposed pedestrian enhancement will be placed; the location of tree wells, sidewalk grates, benches, bus passenger shelters, mailboxes, newspaper boxes, lampposts, traffic signal poles, traffic and parking signs, parking meters, wheelchair ramps, driveways, fire hydrants, trash receptacles and similar sidewalk features or obstructions; and the boundaries of any existing adjacent pedestrian enhancement.

(2) Photographs or other graphic representations, together with specifications, which depict the design, materials and colors of chairs, tables, umbrellas, barriers and

other appurtenances to be located within the boundaries of the proposed pedestrian enhancement.

(3) Photographs of the proposed site of the pedestrian enhancement and within ten feet thereof, showing the relationship of the site to the adjacent sidewalk and buildings and showing the features enumerated in subsection (c)(1)(b).

(4) A detailed description of the manner of removal of the pedestrian enhancement upon the expiration and non-renewal, or the suspension or revocation, of a permit or upon the direction of the Director.

(5) Such additional information as the Director may reasonably require as needed to determine compliance with the provisions of this division.

(d) *Permit application fee.* An application and processing fee, as set forth in Appendix A to this Code, shall accompany each application for a pedestrian enhancement permit. Such fee shall be nonrefundable.

(e) *Indemnification, insurance and bonding requirements to be met.* Proof of compliance with the indemnification and insurance requirements set forth in Section 24-62(a)(4) and (5) and the bond requirements set forth in Section 24-62(a)(7) shall be submitted to and approved by the Director prior to approval of a pedestrian enhancement permit.

(f) *Permit requirements.* The Director shall not approve a pedestrian enhancement permit unless, in the judgment of the Director, the pedestrian enhancement meets all of the following requirements:

(1) The proposed pedestrian enhancement will not cause a safety hazard.

(2) The proposed pedestrian enhancement will not cause undue motor vehicle traffic congestion in the surrounding area.

(3) All owners of properties, and tenants of commercial properties, abutting or adjacent to the proposed pedestrian enhancement, have provided written approval of the pedestrian enhancement; provided that in the case of a condominium, written approval of the condominium owners' association shall constitute approval.

(4) The proposed pedestrian enhancement is suitable to the site and conforms to the requirements, with respect to location, design, function and use, of standards established by the Director pursuant to this section.

(5) If a parklet, the proposed pedestrian enhancement is protected, by an appropriate barrier, from motor vehicles so as to provide adequate protection to occupants of the pedestrian enhancement. The plan required under subsection (c) shall include a description of this barrier.

(6) The proposed pedestrian enhancement will not be located on a city street in a location where, absent the pedestrian enhancement, cars would not be permitted to park.

(7) The proposed pedestrian enhancement complies with all applicable laws.

(g) *Specific standards.* The Director shall establish specific standards by which the Director will determine whether the location and design of the proposed pedestrian enhancement meets the criteria set forth in subsection (f).

(h) *Action on permit application.* No permit shall be issued for a pedestrian enhancement until the location, character and extent of the pedestrian enhancement has been approved by the Planning Commission. The Director may, however, deny the application for a pedestrian enhancement permit, pursuant to subsection (f), before the Planning Commission reviews the location, character, and extent of the proposed pedestrian enhancement. If the Planning Commission approves the location, character, and extent of the pedestrian

enhancement, the Director shall approve, approve with conditions, or deny the application for a pedestrian enhancement permit. Approval or approval with conditions shall only be granted if the proposed pedestrian enhancement complies with the requirements of this division. The Director may impose any lawful condition on a permit that the Director deems necessary or desirable based on safety or suitability of the proposed pedestrian enhancement. Upon approval, the permit application shall constitute the pedestrian enhancement permit.

Sec. 24-253. Same—Changes to approved permit.

No material change to an approved pedestrian enhancement permit shall be made without prior written approval by the Director. The Director may modify an approved permit if the Director finds in writing there is a superseding public need relative to use of the adjacent right-of-way.

Sec. 24-254. Same—Duration, renewal and transferability.

(a) *Duration of pedestrian enhancement permit.* A pedestrian enhancement permit shall be valid for three years from the date of approval or for a shorter period specified in the permit by the Director.

(b) *Renewal.* An approved pedestrian enhancement permit shall be renewable, unless withdrawn in writing by the applicant or revoked or suspended pursuant to the provisions of Section 24-257. Renewal of the permit shall be subject to the applicant signing an application and payment of the renewal fee as set forth in Appendix A to this Code no later than 90 days prior to the expiration of the permit. Renewal shall be subject to compliance with the indemnification and insurance provisions and pedestrian enhancement standards established by the Director in accordance with Section 24-62(a)(4), (5) and (7) in effect at the date of renewal.

(c) *Transferability.* A permit holder may transfer the pedestrian enhancement permit to a new permit holder if the Director first approves in writing the transfer and the proposed new permit holder provides proof that the insurance, indemnification and bonding requirements set forth in this division are met by the proposed new permit holder.

Sec. 24-255. Maintenance, use and operation of pedestrian enhancement.

(a) *Generally.* The permit holder shall be responsible for installing and maintaining the pedestrian enhancement in accordance with all City, state and federal laws, as well as any rules, regulations and standards pertaining to pedestrian enhancements including, but not limited to, the requirements set forth in this division. The permit holder shall require any contractor engaged to perform work or furnish materials with respect to the pedestrian enhancement to comply with all of the requirements of Section 24-62(a)(6).

(b) *Maintenance.* The permit holder shall be solely responsible for maintaining the pedestrian enhancement in a neat, clean, and sanitary condition and for maintaining and repairing any furnishings or amenities appurtenant to the pedestrian enhancement.

(c) *Certain uses not permitted.* Neither the permit holder nor any other person or business may provide food, drink or any other goods or services for consideration to any person in a pedestrian enhancement. This subsection shall not prohibit a person from bringing food, drink or other goods into a pedestrian enhancement for that person's own personal use.

(d) *Operation.* All pedestrian enhancements shall be open to the public. The permit holder may not deny access to the pedestrian enhancement to any person for any reason and may not impose any condition whatsoever on access to the pedestrian enhancement except those required by this division or the pedestrian enhancement permit.

Sec. 24-256. Hours applicable to pedestrian enhancement.

Pedestrian enhancements shall not be occupied between 11:00 p.m. and 5:00 a.m. The permit holder shall post written notice of these restrictions that is visible to the public. As a condition of granting a permit, the Director may prescribe additional hours during which the pedestrian enhancement may not be occupied and require the permit holder to post written notice of those restrictions that is visible to the public. The Director may further specify the design, number, and placement of the notices.

Sec. 24-257. Revocation and suspension of permit.

(a) *Generally.* Operation of a pedestrian enhancement is a licensed privilege granted by the City to occupy a portion of the public right-of-way and is predicated on the pedestrian enhancement being operated and maintained in compliance with all applicable rules, regulations, and standards including, but not limited to, the requirements of this division. An approved pedestrian enhancement permit may be revoked or suspended in accordance with this section.

(b) *Revocation of approved permit.*

(1) The Director shall have the authority to revoke, which revocation shall not be appealable, an approved pedestrian enhancement permit if the Director determines that any of the following have occurred:

a. The applicant misrepresented or provided false information in the permit application.

b. The pedestrian enhancement permit has been suspended more than two times in a 12-month period on grounds of noncompliance pursuant to subsection (c)(1)(a) of this section.

c. The pedestrian enhancement creates a public nuisance or a hazard to the public health, safety or welfare.

d. The Director finds in writing that there is a superseding public need relative to the portion of the public right-of-way occupied by or otherwise affected by the pedestrian enhancement.

(2) Before revocation of a pedestrian enhancement permit, the Director shall provide written notice to the permit holder setting forth the effective date of the revocation and the grounds therefor.

(c) *Suspension of approved permit.*

(1) The Director shall have the authority to suspend, which suspension shall not be appealable, an approved pedestrian enhancement permit for a period of up to thirty days, or such longer period as may be necessary in the case of work in the right-of-way, if the Director finds in writing, with explanation therefor, that any of the following have occurred:

a. The pedestrian enhancement or operation thereof is not in compliance with the approved permit, applicable standards or any other applicable laws, rules and regulations pertaining to pedestrian enhancements including, but not limited to, the requirements set forth in this division.

b. The Director finds in writing that there is a superseding public need relative to the portion of the public right-of-way occupied by or otherwise affected by the pedestrian enhancement.

(2) Before suspension of a pedestrian enhancement permit, the Director shall provide written notice to the permit holder setting forth the effective date of the suspension, the length of the suspension and the grounds therefor.

(3) The Director may reinstate a pedestrian enhancement permit prior to the end of the suspension period if the Director is satisfied that the grounds of the suspension have been remedied.

Sec. 24-258. Removal of pedestrian enhancement.

(a) *Generally.* Upon the expiration and non-renewal of a pedestrian enhancement permit, or upon the direction of the Director, the permit holder shall, at its cost, promptly remove the pedestrian enhancement and restore the right-of-way to its former condition.

(b) *Removal.* The Director may direct the removal of a pedestrian enhancement at any time if the Director determines in writing that one of the following conditions is present:

(1) The pedestrian enhancement presents a safety hazard of any kind.

(2) The pedestrian enhancement unduly disrupts pedestrian or vehicular traffic in the area.

(3) Removal of the pedestrian enhancement is desired in order to perform construction, maintenance, repairs, or other work in any portion of the right-of-way or on any abutting property.

(4) The pedestrian enhancement permit has been revoked or suspended pursuant to this division.

(c) *Noncompliance.* If a permit holder fails to remove the pedestrian enhancement as directed by the Director or in accordance with this division, the Director may cause the pedestrian enhancement to be removed from the right-of-way, the right-of-way to be restored to its original condition and the pedestrian enhancement to be disposed of. The permit holder shall be liable for the costs of such removal, restoration and disposal, including administrative costs,

and the City may recover such costs from the bond furnished by the permit holder pursuant to Section 24-252(e) or collect such costs as permitted by law, either or both.

§ 2. That Appendix A of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein new** fees for sections 24-252(d) and 24-254(b) of the Code of the City of Richmond (2015) as follows:

<i>Code Section</i>	<i>Description</i>	<i>Fee</i>
24-252(d)	Application fee for pedestrian enhancement permit	\$300.00
24-254(b)	Renewal fee for pedestrian enhancement permit	\$150.00

§ 3. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

4-4693

O & R REQUEST

DEC 14 2015

Chief Administration Office
City of Richmond

O & R REQUEST

DATE: December 14, 2015

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor
(This in no way reflects a recommendation on behalf of the Mayor)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: John Buturla, DCAO-Operations

THROUGH: Emmanuel O. Adediran, Director-Department of Public Works

THROUGH: Peter L. Downey, Interim DCAO-Economic Development & Planning

FROM: Mark A. Olinger, Director-Department of Planning and Development Review

Amendment of the Code of Ordinances for the Purpose of Permitting Pedestrian Enhancements within the Public Way.

EDITION: 1
JAN 08 2016
OFFICE OF CITY ATTORNEY
OFFICE OF CITY ATTORNEY
OFFICE OF CITY ATTORNEY
OFFICE OF CITY ATTORNEY

ORD. OR RES. No. _____

PURPOSE: To amend and reordain Chapter 24 of the City Code to allow certain pedestrian enhancements to encroach upon the right-of-way pursuant to the process, terms, and conditions set forth in the attached draft ordinance rather than the general encroachment provisions of Chapter 24; and to amend Appendix A of the City Code by adding therein new fees.

REASON: The proposed ordinance would amend the Code of Ordinances for the purpose of permitting pedestrian enhancements (bicycle parking corrals and parklets) within the public way such that the pedestrian enhancements would be subject to provisions specifically designed for pedestrian enhancements.

Pedestrian Enhancements Defined.

1. On-street Bicycle Parking Corrals make efficient use of the parking areas for bicycle parking in areas with high demand potential. Bicycle Parking Corrals typically have 6 to 12 bicycle racks in a row and can park 10 to 20 bicycles. This uses space otherwise occupied by one to two cars.

Most of Richmond's bicycle parking is provided in bike racks on the sidewalk. However, in a number of commercial areas the potential demand for bicycle parking is greater than the ability of the sidewalk to accommodate both significant amounts of pedestrian traffic and bicycle parking. At other times, local businesses may simply prefer bicycles in the parking space rather than automobiles in order to attract a customer base that is turning more to the bicycles for transportation. In all cases, bicycle parking corrals would be installed at the expressed request or cooperation of the adjacent businesses.

2. Parklets are public seating platforms that convert curbside parking spaces into vibrant community spaces.

“Most parklets have a distinctive design that incorporates seating, greenery, and/or bike racks and accommodate unmet demand for public space on thriving neighborhood retail streets or commercial areas.” (National Association of City Transportation Officials web site)

RECOMMENDATION: Pursuant to consideration by the Land Use Committee, a public hearing would be held by City Council at its subsequent meeting. The recommended schedule would afford identified sponsors of pedestrian enhancements an opportunity to take advantage of the revised ordinance upon adoption.

BACKGROUND: The proposed pedestrian enhancement ordinance will permit selected use of the public right-of-way through the promotion of bike corrals and parklets facilitating a pedestrian-oriented environment while protecting the health, safety and general welfare of Richmond residents, businesses, and visitors. This ordinance will ensure that the public's use of the pedestrian enhancements will not be unduly impaired and will provide for a safe and enjoyable street free from any adverse effects.

Application review is administrative requiring approval by the Director of Public Works. Design Guidelines for the Pedestrian Enhancements are being developed by members of Planning and Development Review, Public Works, and Public Utilities.

The proposed ordinance has received extensive internal vetting by the Departments of Public Works, Public Utilities, Planning and Development Review and the City Attorney's Office.

Staff is currently aware of at least five potential sponsors for Parklets under the proposed ordinance.

FISCAL IMPACT/COST: Staff time for preparation of draft ordinance; publishing of public notice.

FISCAL IMPLICATIONS: N/A.

BUDGET AMENDMENT NECESSARY: N/A.

REVENUE TO CITY: Permit fees associated with Pedestrian Enhancement Applications.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: January 25, 2016.

CITY COUNCIL PUBLIC HEARING DATE: February 22, 2016.

REQUESTED AGENDA: CONSENT.

RECOMMENDED COUNCIL COMMITTEE: Land Use Committee.

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: N/A

AFFECTED AGENCIES: Office of Chief Administrative Officer, City Attorney's Office (for review of draft ordinance), Public Works, Planning & Development Review, Public Utilities

RELATIONSHIP TO EXISTING ORD. OR RES.: Chapter 24 of the City Code would be amended by this request.

REQUIRED CHANGES TO WORK PROGRAM(S): N/A.

ATTACHMENTS: Copy of the proposed ordinance.

STAFF: Mark A. Olinger, Director
Department of Planning and Development Review (Room 511)
(804) 646-6305