



Legislation Text

File #: 23-1065, Version: 1

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 6, 2023

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES F. PARAJON, CITY MANAGER /s/

FROM: TARRENCE MOORER, INTERIM DIRECTOR, TRANSPORTATION AND
ENVIRONMENTAL SERVICES

DOCKET TITLE:

Consideration of a Resolution to Establish Encroachment Fees for Code Section 5-2-29. [ROLL-CALL VOTE]

ISSUE: Consideration of a resolution to establish permit fees for the recently adopted code modification to Encroachments under code section 5-2-29.

RECOMMENDATION: That the City Council approve the resolution (Attachment 1) to establish permit fees for encroachments, effective July 1, 2023.

BACKGROUND: City Council approved amendments to the City Code related to encroachments under Section 5-2-29 on April 25, 2023. This memorandum and attached resolution establish and consolidate the fees associated with encroachments for the revised ordinance (Attachment 2). The amendments to City Code Section 5-2-29 brought the King Street Outdoor Dining Permit, the Parklet Permit and all other administrative encroachments under a single permit. This makes the permitting process more streamlined and easier for applicants.

DISCUSSION: Encroachments have been broken down into five different categories: Standard Encroachments, Parklets, Short-Term Parklets, Outdoor Dining in Public Right-of-Way and Council Approved Encroachments. This fee resolution applies only to applications for new encroachment permits submitted on or after July 1, 2023. The resolution includes two Permit Fee types (at initial application and annual charge) that will be applied to all new encroachment cases. The initial Permit Processing Fee is charged to review all applications for compliance with City Code Section 5-2-29 and to manage the permit requirements for liability insurance associated with each encroachment. In addition, applicants may be required to pay an Annual Charge

based on the type of encroachment being proposed with the application.

Standard Encroachments: These types of encroachments include but are not limited to planters, benches, street furniture, display of bike rental, stoops and architectural fixtures. These elements are outlined under City Code Section 5-2-29(b)(1)a., b., e. and f. as well as Section 5-2-29(b)(2)a., b. and c., and shall pay an initial \$100 fee and no annual charges.

Parklets and Short Term Parklets: In March of 2022, Council approved a fee resolution for parklets (Resolution No. 3059). This proposed fee resolution supersedes Resolution No. 3059. Staff proposes no changes to these fees, except:

- Conversion from cost per linear foot to cost per square foot. The reasoning for the cost conversion is to harmonize units of the fee with the Outdoor Dining in Public Right-of-Way fee outlined below.
- Removal of a separate fee category for the Equity Emphasis Areas. The removal of separate fee category for the Equity Emphasis Areas was done in coordination with the City Attorney's Office and the Office of Race and Social Equity ("RASE"). RASE is currently comprehensively evaluating how to introduce equity into the City's permitting fees instead of individual cases. Once the Office of RASE concludes its evaluation, this fee resolution can be revisited as necessary.

Parklets as defined under City Code Section 5-2-29(b)(1)c. shall pay an initial fee of \$100 and an Annual Charge upon first application submission and annually thereafter. The Annual Charge shall be based on the square footage of the right-of-way that is encumbered by the proposed Parklet, assuming the existing length, and a parking width of 7'. The conversion from linear feet to square feet is implemented to ensure consistency in fee calculations and to account for the total surface area of the space, considering both its length and width. This approach provides a comprehensive measurement that captures the entire footprint of the area. The Annual Charge for Parklets is defined below:

- a. Parklets that are open to the public at all times:
 - i. \$2.00 per square foot of occupied public right of way.
- b. Parklets that are for private use only:
 - i. Within the King Street Retail Strategy area - \$21.00 per square foot of occupied public parking space;
 - ii. All other areas - \$14.00 per square foot of occupied public parking space.
- c. Short-Term Parklets fees:
 - i. \$30 per space per day for each non-metered parking space and \$40 per space per day for each metered parking space occupied by the Short-Term Parklet.

Outdoor Dining and Retail in Public Right-of-Way: Staff proposes to maintain the current King Street Outdoor Dining Annual Charge for this fee outlined in Planning and Zoning's Fee schedule including an initial

fee of \$100. The Outdoor Dining in Public Right-of-Way fee for annual charges is:

\$1.50 per square foot of occupied public sidewalk.

Encroachments Approved by Special Ordinance: Encroachment applications that are approved and authorized by special ordinance adopted by the City Council under City Code Section 5-2-29(c) shall pay an initial \$500 fee and an Annual Charge upon first application submission and annually thereafter. The applicant shall annually compensate the city for such encroachment by payment of the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner or owners of the encroaching property. The City Council, as part of its approval, has the option to waive this annual charge if they so choose.

As noted above, all encroachment applications as defined by City Code Section 5-2-29 (b) shall pay a Permit Processing Fee of \$100 and all applications defined by this City Code Section 5-2-29(c) shall pay a Permit Processing Fee of \$500. Section 5-2-29(c) relates to non-administrative encroachments that may be authorized only by special ordinance adopted by City Council.

Each annual renewal of the permit will be at no cost if the permit has not expired due to lack of evidence of the current certificate of insurance. A \$100 Permit Processing Fee shall be due prior to issuance of any permit renewal if the permit expired due to lack of evidence of current certificate of insurance or payment of annual charge if applicable.

FISCAL IMPACT: This resolution aligns and combines the various existing fees into a single fee resolution. Staff expect to receive at least four permits per year at \$100 for new standard encroachments, which is nominal. Most of the fees proposed with this resolution have remained the same as existing fees except for a standard application cost, which will now cost a standard \$100. Previously, there was a difference in permit fees for Parklets and Outdoor Dining, \$150 and \$100 respectively.

It should be noted that currently both the King Street Outdoor Dining Permits and the Parklet Permits have been operating under reduced annual fees due to the Covid 19 pandemic. The King Street annual outdoor dining fee is currently reduced to \$0 and Parklet Permits are currently reduced by 50%. The fees will remain at a discounted rate until October 1st, 2023, at which time both fees will be charged at a full rate.

ATTACHMENTS:

Attachment 1: Resolution

Attachment 2: Amended Ordinance No. 5485

Attachment 3: Fee Summary Table

STAFF:

Emily A. Baker, Deputy City Manager

Christina Brown, Deputy City Attorney

Lalit Sharma, PE, Deputy Director, DROW, T&ES

Alex Boulden, PE, Division Chief, Permits, T&ES

Katy North, Division Chief, Mobility Services, T&ES

Ann Horowitz, Principal Planner, Land Use Services, P&Z