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**PARK(ing)**

Applying the lessons from  
an annual celebration  
of parklets to pandemic  
recovery in cities.

**DAY**

By Michael Connor and Brian Bartholomew

**R**ETAIL SHOPS AND RESTAURANTS IN CITIES across the country are starting to open under mandated social distancing guidelines. However, maintaining six feet of distance between patrons dramatically limits the number of customers who can frequent a shop or restaurant. Those restaurants with existing outdoor café-style seating have some additional capacity, but most bars, restaurants, and shops do not have access to broad sidewalks or approval for that type of activity.

To remove or lessen that restriction, city governments have been quick to offer legislation that creates greater flexibility. In Louisville, Ky., for example, Mayor Greg Fischer announced that the city will help expand outdoor seating in preparation for restaurants reopening their doors. Effective immediately, the city is waiving application fees for outdoor seating permits with the city's public works department. Fischer said the city also will waive the parking and landscape requirements traditionally tied to the square footage of restaurant seating, which requires a temporary suspension of land development code regulations that prohibit things like off-premises alcohol sales and converting property for a different use.

### Changing Regulations

Cleveland, Ohio, is considering tweaking the rules governing rights-of-way even further to allow restaurants and bars to occupy space in some streets so patrons can maintain social distancing. But some details still need to be worked out. Edward Rybka, Mayor Frank Jackson's chief of regional development, told the City Council's Finance Committee that no immediate timetable was announced. "It's not an easy snap of the fingers kind of thing," Rybka said.

In Portland, Ore., the city had created a design and approval process where streets can be turned into outdoor plazas under a new permitting program. On May 28, the Portland Bureau of Transportation (PBOT) launched the Safe Streets Initiative. Part

of this initiative is a business toolkit and a healthy business permit that helps businesses use more public space to conduct business safely. The streamlined six-step permitting process includes the applicant defining how the public right-of-way would be used, coordination with neighboring businesses and organizations, documenting the plan and design, an online application, city staff review and coordination, and city approval and permitting. Once approved, PBOT Parking Enforcement would place reservation signage or devices in metered areas and "no parking" signs in unmetered areas. Unfortunately, on May 29, the PBOT had to walk back its plan to revoke the traditional sidewalk café permit requirements, noting in an email to business owners that café dining on most sidewalks will not allow enough space to accommodate physical distancing rules.

Clearly, converting sidewalk and curbside space that falls under the definition of public right-of-way isn't something the simply requires "a snap of the fingers." However, the economy and downtown shops and restaurants don't have the luxury of waiting for long-standing and complicated codes and ordinances to be researched, rewritten, debated in the public realm, and approved by our political leaders. Therefore, the key to expanding social distancing and seating capacity in shops and restaurants while respecting codes and ordinances that relate to public safety lay in the interpretation and creative application of codes and ordinances that already exist. Up steps PARK(ing) Day.

# *Play a Role in Combating COVID-19?*

## PARK(ing) Day And COVID

PARK(ing) Day originated in San Francisco, Calif., in 2005 and is now an annual international event where the public collaborates to temporarily transform parking spaces into small parks to elicit a reconsideration of the designation of public space. PARK(ing) Day occurs on the third Friday in September to promote a new look at the public right-of-way and motivate participation in the civic processes that shape the urban environment. For one day a year, a portion of the right-of-way that was used exclusively for the temporary storage of a single automobile is recreated into a space that reminds the public and our political leadership of the great potential of these valuable but forgotten public spaces. However, placing human beings in the same environment as iron and steel vehicles that can weigh several tons and can travel at high speeds is a dangerous endeavor and requires very thoughtful planning, design, and implementation practices. Fortunately, many communities have already gone through that public research, vetting, and pilot program process.

Like many communities, Arlington County, Va., developed PARK(ing) Day guidelines to ensure that temporary installations in the public right-of-way are created in a safe and effective manner. The guidelines developed by the county were based on best planning and design practices applied elsewhere and define appropriate location (only legal parking spaces and not at the end of street blocks), speed limit of adjacent roadway (not more than 25 mph), time period (9:00 a.m. to 3:30 p.m.), space size (20 feet by 5 feet), and the type, height, and width of material that can be used as a buffer zone.

In Arlington County, the PARK(ing) Day permitting process is the same as a transportation right-of-way (TROW) permit, which is required when construction activity in the right-of-way blocks or limits the use of any type of lane. That process includes a PARK(ing)

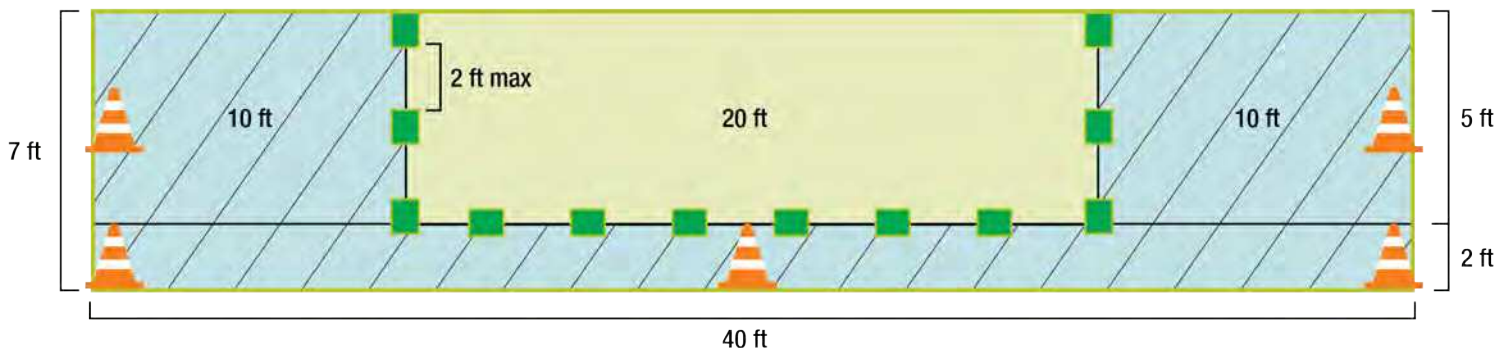
Day agreement and release form, certificate of liability insurance, site design concept, and a barrel request form. A certificate of liability insurance (COI) is a simple form issued by the applicant's insurance company that summarizes the types of coverage, the issuing insurance company, your policy number, the named insured, the policy's effective dates, and the types and dollar amount of limits and deductibles.

Arlington County is identified as "primary and non-contributory" additional insured under the commercial general liability insurance as respect to any street use permit issued by Arlington County. Prior to PARK(ing) Day, county staff post signs adjacent to the parking space several days prior noting the date and time when the space would be removed from service, then install the required traffic barrels and safety tape the night before. The applicant then follows additional guidelines regarding the type and dimensions of material that may be temporarily placed within the defined space.

## Applying the Lessons

Having established the fact that many communities have incorporated formal processes to permit the safe, effective, and temporary alternative use of the public right-of-way, the question then becomes how PARK(ing) Day applies to COVID-19, social distancing, and opening the economy. As part of the City of Hoboken, N.J.'s, small business recovery plan, the city created a task force of political, business, and civic leaders; city staff; and the newly created Hoboken Business Improvement District (BID), which examined new and creative strategies to support local restaurants reopening. As part of amendments that would be made to the existing sidewalk café regulations, qualified businesses would be permitted to build a temporary platform in the parking spots immediately in front of their establishment to use as an outdoor dining area. From a code perspective, Chapter 168 Article II of Hoboken's

**Lessons learned from installing parklets can be of great use as restaurants and other businesses expand into parking spaces.**





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municipal code of ordinances defines encroachments into the public right-of-way and revocable consent, which includes the following:

- No person or entity shall install or maintain any improvements or appurtenances of any kind in, over, or upon any sidewalk, street, public lane, alley, or other public ground without first obtaining a revocable consent from the Department of Community Development.
- A revocable consent shall not be granted for a use that would be considered a permanent structure, would interfere with the use of inalienable property, or could be granted for a purpose for which a franchise or easement may be granted.
- All revocable consents shall be revocable at any time by the City of Hoboken, shall be granted for a fixed term, and shall provide for adequate compensation to

be annually provided to the City during the continuance of the consent.

- Notwithstanding any provisions of this section, revocable consent to construct and operate Sidewalk Cafes shall continue to be reviewed and administered pursuant to Article V, Sidewalk Cafes, of this Chapter of the municipal code.

Following the code of ordinances and existing design and permitting guidelines, Hoboken developed a concept called a “streatery,” where shared public space is temporarily converted to curbside space for outdoor dining and take-away food and beverages can be consumed. Dining space is separated from adjacent parking and travel lanes using moveable barriers such as barricades, planters, bollards, or similar structures. Tables in a streatery must be six feet apart, measured from backs of opposite chairs, to promote social distancing. The BID would be instrumental as it could act as the applicant representing groups of restaurants and business owners along the city’s key commercial corridors.

In concept, the streatery is installed during Friday evenings and during the weekend, when restaurants are typically busiest, and removed Sunday evening, returning the parking space to its usual function. The adjacent roadway would be unaffected.

In effect, Hoboken and its streatery plan is an extension of PARK(ing) Day where, through appropriate planning, design, review, and approval, the public

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right-way-way is temporarily converted to a space where people can sit, talk, and dine in relative safety and comfort. And this conversion could occur not on a single day per year, but three or more days/evenings per week.

### **Financial Considerations**

The development of various strategies by local governments to help retail establishments reopen under the new guidelines for safety have—and will for some time—affected parking budgets. As most municipalities nationwide have relaxed or eliminated parking enforcement efforts, raised gates at off-street facilities, and waived on-street parking fees, negative revenue impacts also are the new normal.

No one can accurately identify the real impact of the new business normal on future parking demand. However, it is only natural to anticipate increased use of single-occupant vehicles entering business districts as the public may initially shy away from the mass transit options they relied on in the past. This potential increase in parking demand may help parking budgets somewhat recover by realizing new parking demand.

As evidenced by the various communities identified earlier, local governments understand that a vibrant business district is necessary for their respective community to thrive. However, they also understand that sufficient parking inventory must be available to support the reopening business demand. Moreover, transportation network company (TNC) demand, specifically food delivery services, for curbside space also has increased during this pandemic.

As some business establishments may require expansion of their footprints to include public parking areas to meet social distancing guidelines, the issue

of compensation for the use of a public parking asset cannot be ignored. This requires a financial balancing act to occur while also attempting to accommodate the parking needs of these different user groups.

Municipalities are adopting several methods for assessing fees for the use of a curbside spaces. One example that is used to support business needs is a per lineal foot of curb space used fee. For example, Hoboken, NJ, is assessing a \$0.50 per lineal foot fee per day, which is equivalent to \$10 per day per space. The regular on-street parking rate is \$2.00 per hour with parking meters enforced from 9:00 a.m. until 9:00 p.m. On a typical day, if the meter were fully utilized, an on-street meter would generate \$24.00 per day. The per lineal foot rate is discounted 42 percent over the standard revenue potential that would be realized by the city for businesses that opt to utilize curbside spaces. Hoboken also assesses a \$100 application fee, which is paid to the city's engineering department.

It is important to note that there are other costs that will be associated with the use of curbside spaces, some of which could be substantial. Developing any initial agreement for the use of this space should clearly dictate which party is responsible for the funding of these items. For instance, the cost to clean the space daily, supply temporary power (if applicable), break down and re-install infrastructure, and maintain aesthetic design standards will have to be borne either by the user, municipality, or business taxing district as will be the case in Hoboken.

In the end, the assessment of fees for the use of public parking assets for business use in the age of the new normal will be driven by the financial wherewithal and flexibility of the municipality and/or parking agency. In time, when the business environment begins to look like the pre-pandemic business environment, well-designed, creative public space additions that help buffer an otherwise asphalt-and-concrete landscape also may become the new normal. ♦



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