

## STAFF REPORT

**DATE:** September 25, 2024

**TO:** Planning Commission

**FROM:** Katie Yancey, Economic Development Director

**SUBJECT:** Proposed Updates to Sections 40.01.010 and the Addition of Subsection 40.14.120 titled “Specific to Outdoor Dining” to the Davis Municipal Code

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### **Recommendation**

Staff recommend that the Planning Commission recommend the City Council take the following action:

- Conduct a Public Hearing; and
- Introduce an ordinance of the City Council of the City of Davis amending various sections of Chapter 40 (Zoning) of the Davis Municipal Code to support the Downtown Outdoor Dining Program

### **Background**

On December 13, 2022, the City Council adopted [Resolution 22-195](#) to repeal the Core Area Specific Plan and to adopt the Downtown Specific Plan (“Specific Plan”). The Specific Plan articulates the community visions through 2040 for the Downtown area. The City Council found that the Specific Plan is compliant with the direction of the City’s General Plan for the Downtown and provides goals, policies and implementation actions to achieve its vision. Since the Specific Plan was adopted via a resolution instead of by ordinance, certain elements of the Specific Plan have been or will be incorporated into the City’s Municipal Code to make them enforceable. The Form Based Code is the primary example, thus far.

In conjunction with the Specific Plan’s adoption, Chapter 40 was amended to incorporate the Specific Plan’s public space standards. [Section 40.14.100](#) of the Municipal Code (i.e., Chapter 40, Section 14, subsection 100) regulates civic spaces, which are simply defined in the section as land that is improved for civic gathering purposes. The types of civic spaces described in the Zoning Chapter include: Pocket Park, Plaza, Playground, Passage, Community Garden, and Green. Attachment 1 includes Table 40.14.100 “Overview of Civic Space Types”.

### **Analysis**

Staff is proposing an ordinance of the City Council to amend various sections of Chapter 40. A draft of the ordinance is provided as Attachment 2. This amendment includes additions to the definitions provided in Chapter 40 of the Municipal Code to facilitate the Downtown Outdoor Dining Program. These changes include adding definitions for a “Civic Space” and for a “Parklet”, a type of pocket park. Staff is also

proposing in the ordinance, an additional subsection to Chapter 40 Section 14 of the Municipal Code to describe the Downtown Outdoor Dining Program that was launched on August 15<sup>th</sup>.

#### New Definitions in Section 40.01.010

Staff is proposing the following two new definitions:

- “Civic Spaces” are land that is improved for civic gathering purposes and are located solely in the district designated as the Downtown and traditional neighborhood overlay districts. These spaces are publicly-owned and used by the public and non-profits for community events or for outdoor dining by restaurants or bars that are authorized under the City’s Downtown Outdoor Dining Program. They typically include characteristics of a public realm throughfare and open space areas. They are designated as a both a park and open space by the City in the district designated as the Downtown and traditional neighborhood overlay districts.
- A “Parklet” is a type of pocket park if it is publicly accessible. It is a sidewalk extension that provides more space and amenities for people using the street. Usually, parklets are installed on parking lanes and use several parking spaces and may include small seating area, sidewalk extension, or green space created as a public amenity intended for people to stop, to sit, and to rest or dine in. Parklets located in the district designated as the Downtown and traditional neighborhood overlay districts are a civic space type. They can also be constructed for private exclusive use.

#### New Subsection 40.14.012: Specific to Outdoor Dining

Outdoor dining and/or commercial uses in support of civic activity are listed as the typical uses for the following civic space types exclusive to the Downtown: pocket park, plaza and passage. Each of these civic space types include in their descriptions the need to incorporate public throughfare components in their design. The public realm throughfares includes streets, sidewalks, plazas, pocket parks, alleys, and mid-block passages. These are spaces that any individual should be able to visit and enjoy and move freely and comfortably about.

In order to support the designated uses and design components of the pocket park, plaza and passage civic space types, staff is also proposing to add a minor subsection to Section 40.14 Supplemental to Downtown Zones to address the Downtown Outdoor Dining Program. This program allows local restaurants to either request to construct an expanded service area in specific parts of the public realm or to utilize existing public civic spaces for expanded service. The program is geographically limited to the streets, sidewalks, plazas, private parklets (a specific type of pocket park), and passages in the district designated as the Downtown and traditional neighborhood overlay districts.

The proposed new subsection, also provided in Attachment 2, describes the purpose of the outdoor dining in the downtown. For the purposes of administrating the Downtown Outdoor Dining Program, the new subsection is proposed to include: 1) the locations

that outdoor dining can occur in the public realm and 2) the means of permitting use of the public realm for outdoor dining. Staff recommends that outdoor dining be limited to certain segments of the sidewalk, street and civic spaces. Staff also recommends that the form of the agreement to permit the use of the space for exclusive private use be a revocable license agreement that would be approved by the City Manager.

### Related Activities

In addition to presenting the ordinance to the City Council, staff will also be presenting other minor changes to the other sections of the Municipal Code that are outside the Planning Commission's purview. To complete the launch of the Downtown Outdoor Dining Program, staff will be requesting that the Council adopt a resolution updating the City's Fee Schedule to include the application and checklist deposit, the rental charges and a renewal/conversion fee to bring existing business who are using the public realm for outdoor dining into compliance. Staff will also be requesting that the Council adopt the Downtown Outdoor Dining Furnishing Standards and Guidelines by resolution. The goal is to have all these actions completed in November.

### Environmental Determination

The proposed project is consistent with the Downtown Davis Specific Plan Environmental Impact Report (EIR) (SCH#2020100103), which was certified by the City on December 13, 2022. Per CEQA Guidelines Section 15162(a), the proposed project does not require further environmental review if the proposed project would not result in new significant impacts or new significantly changed mitigation measures. The proposed project is consistent with the impacts analyzed in the EIR and therefore additional environmental review is not required.

### Public Notice and Outreach

The hearing for the project was publicly noticed in the Davis Enterprise in accordance with City noticing requirements. Staff presented similar and related content at a public meeting on September 4, 2024, at the Davis Downtown Business Association's board meeting on September 12, 2024 and at the Recreation and Parks Commission meeting on September 18, 2024.

### Attachments

1. Table Overview of Civic Space Types
2. Draft Ordinance \_\_\_\_\_ of the City Council of the City of Davis amending various sections of Chapter 40 (Zoning) of the Davis Municipal Code to support the Downtown Outdoor Dining Program

Table 40.14.100: Overview of Civic Space Types

Key: <b>YES</b> Allowed <b>NO</b> Not Allowed			
Zones	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>
Civic Space Type	Pocket Park/Plaza	Playground	Passage
Illustration			
Description	<b>40.14.100.A: Pocket Park/Plaza.</b> A small-scale space, serving the immediate neighborhood, available for informal activities in close proximity to neighborhood residences, and civic purposes, intended as intimate spaces for seating or dining.	<b>40.14.100.B: Playground.</b> A small-scale space designed and equipped for the recreation of children. These spaces serve as quiet, safe places protected from the street and typically in locations where children do not have to cross any major streets. An open shelter, play structures, or interactive art and fountains may be included with landscaping between. Playgrounds may be included within all other civic space types.	<b>40.14.100.C: Passage.</b> A pedestrian pathway that extends from the public sidewalk into a civic space and/or across the block to another public sidewalk. The pathway is lined by nonresidential shopfronts and/or residential ground floors and pedestrian entries.

Key: <b>YES</b> Allowed <b>NO</b> Not Allowed			
Zones	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>	<b>N-M</b> <b>N-L</b> <b>MS-M</b> <b>MS-L</b>
Civic Space Type	Community Garden	Plaza	Green
Illustration			
Description	<b>40.14.100.D: Community Garden.</b> A small-scale space designed as a grouping of garden plots available to nearby residents for small-scale cultivation. Community gardens may be fenced and may include a small accessory structure for storage. Community gardens may be included within all other civic space types.	<b>40.14.100.E: Plaza.</b> A community-wide focal point primarily for civic purposes and commercial activities. Plazas are typically hardscaped with planting as accents. Commercial activities are subordinate to civic activity.	<b>40.14.100.F: Green.</b> A large space available for unstructured and limited amounts of structured recreation.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS AMENDING VARIOUS SECTIONS OF CHAPTER 40 (ZONING) OF THE DAVIS MUNICIPAL CODE TO SUPPORT THE DOWNTOWN OUTDOOR DINING PROGRAM**

WHEREAS, the General Plan of the City of Davis, Goal ED 1 of the Economic and Business Development Elements states that the City should “maintain and enhance the Core Area as a vibrant, healthy downtown that servers and the city’s social, cultural and entertainment center and primary, but not exclusive, retail and business district;” and

WHEREAS, it is the purpose of the Zoning Ordinance of the City of Davis is to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, Article 40 of the Davis Municipal Code establishes various zones, permitted and conditional uses, development standards and entitlement process procedures to promote the orderly and harmonious growth of the city and the stability of land values and investments and the general welfare of the city; and

WHEREAS, the City Council finds that there is a need to update from time to time, those provisions which have been found to ineffectively promote the general welfare of the city and hamper general economic development; and

WHEREAS, the City Council therefore finds that this Ordinance is necessary for the maintenance and preservation of the health, safety and welfare of the City; and

WHEREAS, on September 25 2024, the Planning Commission of the City of Davis conducted a duly noticed public hearing on Ordinance No. \_\_\_\_\_. At the hearing, all interested persons were given the opportunity to be heard. The Planning Commission received and considered the staff report and all the information, evidence and testimony presented in connection with this Ordinance. Following the close of the public hearing, the Planning Commission recommended approval of Ordinance No. \_\_\_\_\_ to the City Council; and

WHEREAS, on October 15, 2024, the City Council of the City of Davis conducted a duly noticed public hearing on Ordinance No. \_\_\_\_\_. At the hearing, all interested persons were given the opportunity to be heard. The City Council received and considered the staff report, the Planning Commission’s recommendation, and all the oral and written information, evidence, comments, and testimony presented in connection with this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1.** The recitals above are true and correct and are hereby incorporated into this Ordinance.

**SECTION 2.** The General Plan of the City of Davis states that the City shall engage in activities that “increase attractions and amenities that bring people to the Core,

including... restaurants.” This Ordinance is therefore consistent with the City’s General Plan.

**SECTION 3.** Section 40.01.010 (Definitions) of Article 40.01 (In General) of Chapter 40 of the Davis Municipal Code is amended to add the following definitions, with all other definitions to remain the same. Any definitions that currently exist shall be amended with the definitions hereto:

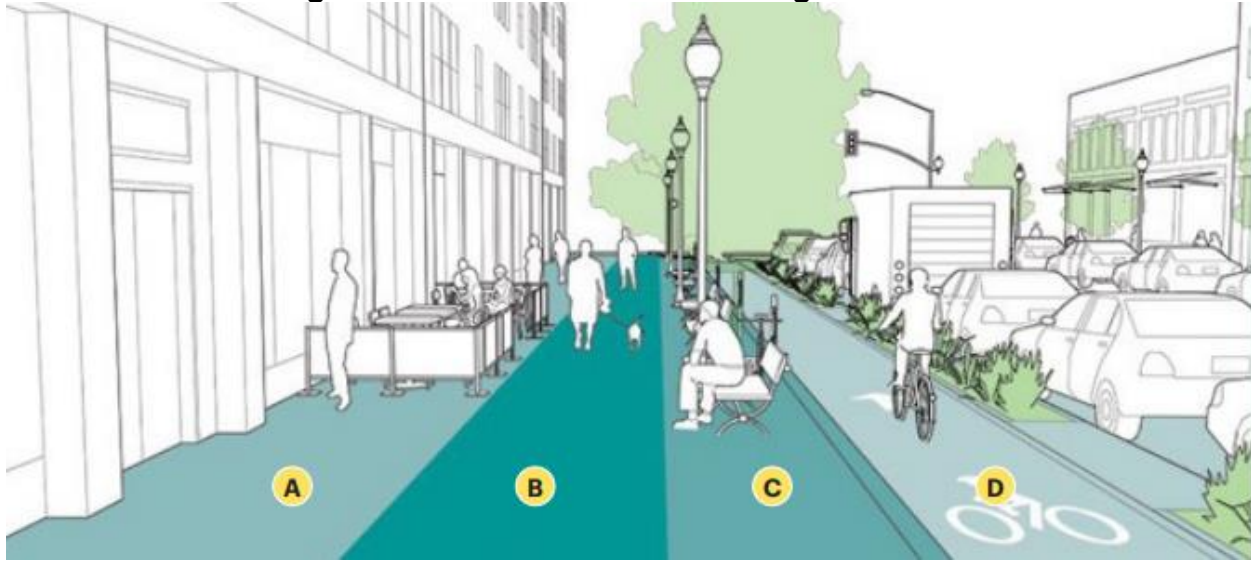
**Civic Spaces.** Land that is improved for civic gathering purposes and are located solely in the district designated as the Downtown and traditional neighborhood overlay districts. These spaces are publicly-owned and used by the public and non-profits for community events or for outdoor dining by restaurants or bars that are authorized under the City’s Downtown Outdoor Dining Program. They typically include characteristics of a public realm thoroughfare and open space areas. They are designated as a both a park and open space by the City in in the district designated as the Downtown and traditional neighborhood overlay districts.

**Parklet** is a type of pocket park if it is publicly accessible. It is sidewalk extension that provides more space and amenities for people using the street. Usually, parklets are installed on parking lanes and use several parking spaces. a small seating area, sidewalk extension, or green space created as a public amenity intended for people to stop, to sit, and to rest or dine. Parklets located in the district designated as the Downtown and traditional neighborhood overlay districts area are civic space type. They can also be constructed for private exclusive use.

**SECTION 4.** Section 40.14.120 of Chapter 40 of the Municipal Code of the City of Davis, is hereby added to read as follows:

**(a) Purpose.** The provisions of this section are intended to ensure consistency and equity for all local brick-and-mortar restaurants, bars, and other food and drink establishments in the Downtown zones who may request or have requested to construct or have already constructed or installed an expanded service area in specific parts of the public right-of-way or public property or have requested to utilize existing public civic space for expanded service or currently are using existing public civic space for expanded service.

**(b) Eligible Public Spaces for Outdoor Dining.** For exclusive private-use outdoor dining, eligible locations are restricted to the use of the public right-of-way, public property, or public civic space. The public right of way is further restricted to, sidewalk zones A, C, and D as shown in Figure 40.14.120.A: Sidewalk Design Elements and further described in this section.

**Figure 40.14.120.A: Sidewalk Design Elements**

(1) Zone A: Frontage Zone. The space immediately adjacent to a building that serves the functions of the building. This zone can include building entryways, outdoor dining, or sandwich boards. For the purposes of this section the Frontage Zone shall have a minimum width that permits a clear opening of the building entryway along the face of the building.

(2) Zone B: Pedestrian Through Zone. The primary pedestrian travel way running the length of the sidewalk. This zone shall be kept clear of obstructions (both within and immediately adjacent to the zone) to ensure that pedestrians have a safe and adequate place to walk. Through zones in the Downtown zones shall provide a minimum of five feet of clear area, however, wider through zones (10 to 15 feet) are preferred in locations with higher pedestrian volumes.

(3) Zone C: Furniture Zone. The space between the through zone and the curb. This zone typically accommodates street furniture and amenities, as well as green infrastructure elements. For the purposes of this section the Furniture Zone shall have a minimum width that coincides with any existing tree wells.

(4) Zone D: Enhancement Zone: The space immediately next to the sidewalk and can accommodate a variety of uses including parklets, bicycle facilities, and green infrastructure. For the purpose of this section, the Enhancement Zone shall not exceed the minimum area needed to provide emergency vehicles access.

### **(c) Design Standards.**

(1) Acceptable furnishings that may be placed in the eligible public spaces for outdoor dining shall be consistent with the provisions set out in the Downtown Outdoor Dining

Furnishing Standards and Guidelines, which shall be adopted by resolution of the City Council.

**(d) Powers and Duties.** The City Manager is hereby permitted to enter into revocable license agreements with private parties for the purposes of this section.

**(e) Existing Permits or Agreements for Outdoor Dining.** To the extent permitted by the terms of the existing agreements or permits, all existing improvements that have been already constructed or installed in an expanded service area in specific parts of the public right-of-way or public property or currently are using existing public civic space for expanded service shall convert or renew their existing agreements or permits to those permitted under this section.

**SECTION 11.** The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law.

INTRODUCED on the 15th day of October, 2024, and PASSED AND ADOPTED by the City Council of the City of Davis on this 12th day of November, 2023, by the following vote:

AYES:

NOES:

ABSENT:

Josh Chapman  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk