



**TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 03/22/2022

ITEM NO: 3

DATE: March 10, 2022
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Amendments to the Town Council Late Night Entertainment Policy No. 1-03 to Clarify the Use of Public Right-of-Way and Semi-Permanent Parklets for Entertainment; and Forward the Council Policy Committee's Recommendation to the Town Council.

RECOMMENDATION:

Consider amendments to the Town Council Late Night Entertainment Policy No. 1-03 to clarify the use of public right-of-way and semi-permanent parklets for entertainment; and forward the Council Policy Committee's recommendation to the Town Council.

BACKGROUND:

In 2015, the Town Council held a study session focused on Economic Vitality which resulted in a series of policy and ordinance updates to allow greater flexibility for businesses in Los Gatos. One of the updates that came from this effort was the Late Night Entertainment Policy that allowed businesses to offer entertainment by-right until 10 p.m. within their business' premises, governed only by the Town Code. For entertainment after 10 p.m., the Policy allowed businesses to obtain a staff-level Late Night Entertainment Permit.

On June 21, 2016, the Town Council adopted the Late Night Entertainment Policy (Attachment 1) to create provisions for entertainment to be offered by businesses and community members throughout Town. The intent of the Policy was to create consistent guidelines for all businesses and provide an opportunity for those with a more restrictive Conditional Use Permit (CUP) to modify their conditions to align with the Policy.

CUPs modified or created after the adoption of this Policy include language that allows for entertainment consistent with the Entertainment Policy.

PREPARED BY: Monica Renn
Economic Vitality Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION:

Since the adoption of the Late Night Entertainment Policy, the economic environment has evolved dramatically. Before the COVID-19 Pandemic, businesses were striving to create an experience that drew customers into their physical locations in an effort to compete with the rising online marketplace. Then, in 2020, when the COVID-19 Pandemic mandated business shutdowns and an even more dynamic economic environment, businesses were again faced with the need to adapt their operations to remain successful.

One of the adaptations that proved to be crucial for businesses through the shutdowns was the additions of parklets using temporary kral barriers to secure public right-of-way, which then evolved into a Town subsidized semi-permanent parklet program that is currently underway. Through 2020 and most of 2021, the Town remained extremely flexible with outdoor offerings in the parklets as indoor activities were drastically reduced, or completely closed in many cases. As the most recent Omicron variant has tapered off and local mask and occupancy restrictions have lifted, the vibrancy and ability for businesses to return to a pre-COVID operation structure is also beginning to take shape.

With comfort levels for gatherings on the rise and with the available outdoor space of parklets, staff is aware that the Late Night Entertainment Policy, as written, may not provide the needed clarity for businesses. Thus, staff is bringing the Policy to the Council Policy Committee with recommended modifications for the Committee to consider, then forward its recommendations to the full Town Council for additional review, discussion, and potential adoption.

Attachment 2 provides a redlined version of the 2016 Late Night Entertainment Policy. While the intent and high-level provisions of the Policy remain the same, the draft modifications provide specific language relating to parklets and use of outdoor public right-of-way for entertainment.

The intent of the modified Policy is to continue to allow businesses to offer amplified and unamplified entertainment by-right within the private property of their business, including patios, parking lots, and other private outdoor areas, given the offerings and noise levels remain in compliance with the Entertainment Policy and Town Code. Those businesses with a semi-permanent parklet may additionally offer unamplified entertainment outdoors in their parklet space during their operating hours, in compliance with the associated Conditional Use Permit (CUP).

Should a business wish to offer amplified entertainment within their semi-permanent parklet, an approved special event permit is required. Likewise, a special event permit is required if any business or other community stakeholder would like to offer amplified entertainment within a public parklet (including Grays Lane), park, parking lot, sidewalk, or other public right-of-way area. Providing this level of review allows for event organizers to notify surrounding neighbors

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DISCUSSION (Continued):

and eliminates the ability for multiple amplified entertainment acts to be occupying similar areas of public right-of-way simultaneously.

Staff is not recommending modifications to the portion of the Policy that relates to the previously adopted provisions for the Late Night Entertainment permit for entertainment within a business premises after 10 p.m. The Policy further clarifies that no entertainment, amplified or unamplified, is permitted outdoors after 10 p.m.

CONCLUSION:

Consider amendments to the Town's Late Night Entertainment Policy that clarify the use of public right-of-way and semi-permanent parklets for entertainment; and forward the Council Policy Committee's recommendation to the Town Council.

COORDINATION:

This report and draft amendments to the Late Night Entertainment Policy have been coordinated with the Town Manager's Office, Town Attorney's Office, and the Community Development and Police Departments.

FISCAL IMPACT:

There are not fiscal impacts related to the recommendation of this staff report.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Late Night Entertainment Policy adopted June 21, 2016
2. Redlined Late Night Entertainment Policy with recommended modifications