

Sec. 122-181. Sidewalk use and fence permits.

(a) *Type A sidewalk use and fence permits.* Type A sidewalk use and fence permits shall be issued in accordance with all of the following requirements:

- (1) The holder of a valid Texas Alcoholic Beverage Code permit must apply for and receive a type A sidewalk use and fence permit pursuant to the process established by the city secretary.
- (2) The permit applicant must be the owner or lessor of a business located within the type A sidewalk use and fence permit zone.
- (3) For purposes of this section, the zone in which a type A sidewalk use and fence permit may be applied for and granted is hereby set forth in figure 5 below.



Figure 5

- (4) A 36-inch tall fence is required around the sidewalk use permit area and must receive a written determination of suitability from the city town center development coordinator prior to installation.
- (5) Signage must be posted indicating that alcoholic beverages may not be removed from the fenced area.
- (6) The sidewalk use and fence permit area shall be monitored by an employee at all times to ensure that no alcoholic beverages are removed from the sidewalk use permit area.
- (7) The sidewalk use and fence permit area must maintain a minimum five-foot wide free and clear pedestrian path between the face of the enclosure and the back of the curb unless otherwise

approved, on a case-by-case basis, by the town-center development coordinator or as specifically described in figure 7 below.

(8) The city secretary may revoke a sidewalk use permit at any time. A person/business aggrieved by the revocation of a sidewalk use and fence permit may appeal the revocation to the city manager, whose decision shall be final.

(9) A sidewalk use and fence permit shall expire on the date specified in the executed sidewalk lease agreement, but may be renewed without the necessity of complying with the application process set forth in subsection (a)(1) of this section, if the permit holder has not plead guilty or no contest to and/or has not been convicted of any alleged violation of this section.

(b) *Type B sidewalk use and fence permits.* Type B sidewalk use and fence permits shall be issued in accordance with all of the following requirements:

(1) The holder of a valid food service establishment permit pursuant to section 46-2(c) of the Code of Ordinances of the City of McKinney, Texas for which the primary function of the business is the sale and consumption of food must apply for and receive a type B sidewalk use and fence permit pursuant to the process established by the city secretary.

(2) The permit applicant must be the owner or lessor of a food service establishment located within the type B sidewalk use and fence permit zone.

(3) For purposes of this section, the zone in which a type B sidewalk use permit may be applied for and granted is hereby set forth in figure 6 below.



Figure 6

- (4) Barriers shall be erected to enclose the sidewalk use permit area and must receive a written determination of suitability from the city town center development coordinator prior to installation. Said barriers may include but not be limited to, fencing that reaches a height of 36 inches, or benches or other barriers that reach a minimum of 20 inches in height and a maximum of 42 inches in height. Living plant screens shall not be an acceptable barrier material.
- (5) The sidewalk use and fence permit area must maintain a minimum five-foot wide free and clear pedestrian path between the face of the barrier and the back of the curb unless otherwise approved, on a case-by-case basis, by the town center development coordinator or as specifically described in figure 7 below.

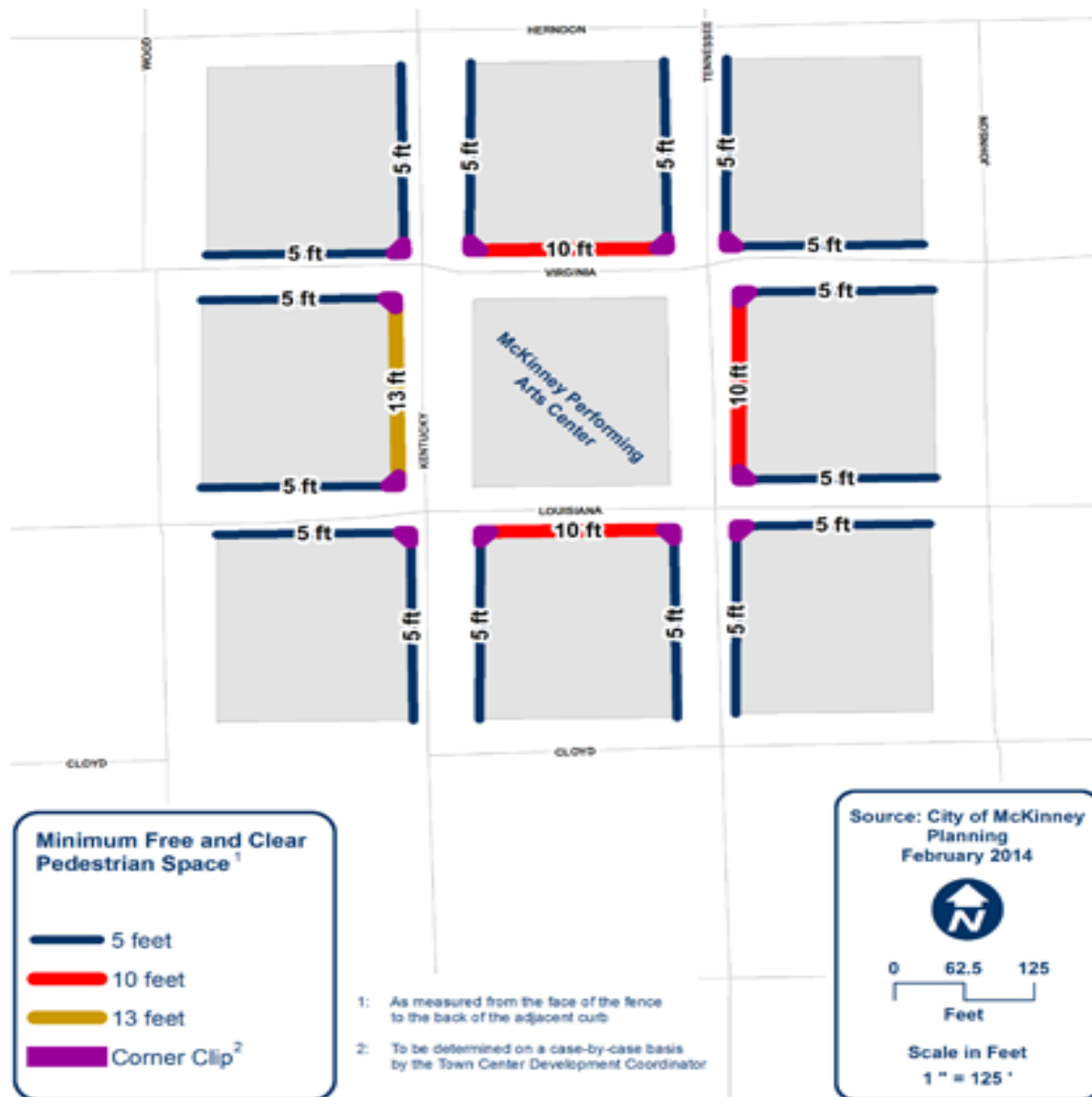


Figure 7

- (6) Signage must be posted indicating that alcoholic beverages are not allowed within the sidewalk use and fence area.
- (7) The sidewalk use and fence permit area shall be monitored by an employee to ensure that no alcoholic beverages are brought into the sidewalk use and fence permit area.

- ~~(8) The city secretary may revoke a sidewalk use and fence permit at any time. A person/business aggrieved by the revocation of a sidewalk use permit may appeal the revocation to the city manager, whose decision shall be final.~~
- ~~(9) A sidewalk use and fence permit shall expire on the date specified in the executed sidewalk lease agreement, but may be renewed without the necessity of complying with the application process set forth in subsection (b)(1) of this section if the permit holder has not plead guilty or no contest to and/or has not been convicted of any alleged violation of this section.~~