

**ORDINANCE NO. 2022-06-xxxx**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, DELETING CHAPTER 122-181 (SIDEWALK USE AND FENCE PERMITS) AND AMENDING CHAPTER 90, ARTICLE VI (PARKLETS) OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS TO MODIFY AND RELOCATE THE SIDEWALK USE AND FENCE PERMIT PROVISIONS OF SECTION 122-181 TO ANOTHER CHAPTER, CHAPTER 90, ARTICLE VI, THROUGH THE AMENDMENT OF CHAPTER 90 "STREETS AND SIDEWALKS" AS SET FORTH HEREIN BELOW; AND AMENDING SECTION 90-360 (PARKLETS PERMITTED IN CERTAIN USE AREAS) TO ESTABLISH A PERMIT DURATION AND RENEWAL TERM; BY AMENDING SECTION 14-20(2) SIDEWALK USE PERMIT; AND BY AMENDING APPENDIX A "SCHEDULE OF FEES," TO MODIFY THE ADMINISTRATIVE FEES ASSOCIATED WITH THE SIDEWALK LEASE AGREEMENTS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR INJUNCTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of McKinney, Texas (the "City") is a Home Rule City possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its Home Rule Charter; and

**WHEREAS,** the City of McKinney adopted a Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

**WHEREAS,** the City Council of the City of McKinney recognizes that the downtown area has been revitalized due to the McKinney Performing Arts Center and the reconfiguration of the downtown square; and

**WHEREAS,** the City Council of the City of McKinney permits food service establishments holding a valid food service establishment permit, and/or valid T.A.B.C. permit, to also receive a sidewalk use permit in order to allow outside seating in front of their establishments; and

**WHEREAS,** the City Council of the City of McKinney now desires to allow retail establishments holding a establishment permit, which do not hold a valid T.A.B.C. permit nor a food service permit, to also receive a sidewalk use permit in order to allow outside seating but not retail sales in front of their establishments; and desires for parklet use area to have a limited term.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1.     **FINDINGS**

All of the above premises are found to be true and correct legislative and factual findings of the City of McKinney and are hereby approved and incorporated into the body of this Ordinance as if restated in their entirety.

Section 2.     **THE MCKINNEY CODE OF ORDINANCES, CHAPTER 122, SECTION 181 "SIDEWALK USE AND FENCE PERMITS" IS HEREBY DELETED IN ITS ENTIRETY.**

Section 3.     **THE MCKINNEY CODE OF ORDINANCES, CHAPTER 90 (STREETS AND SIDEWALKS), ARTICLE VI, PARKLETS SHALL BE AMENDED AND SHALL READ AS INDICATED IN EXHIBIT "A, ATTACHED HERETO.**

Section 4.     From and after the effective date of this ordinance, Section 14-20(2) "Sidewalk Cafes and Parklets of the Code of Ordinances of the City of McKinney, Texas is hereby amended to read as follows: *A Sidewalk Café or Parklet permit has been issued in accordance with section Chapter 90, Article VI of the Code of Ordinances of the City of McKinney, Texas;*"

Section 5.     **FEES**

From and after the effective date of this Ordinance, Appendix A – Schedule of Fees, Section 90-360, "Parklets Permitted in certain areas," of the Code of Ordinances of the City of McKinney, Texas is hereby amended to retitle that section and to add a provision regarding the fee for a Sidewalk License Agreement such that said provision shall hereafter read as follows:

*"Sec. 90-360 Parklets and Sidewalk Use Areas.*

Parklet Application.....	\$250.00
Parklet Space Rental.....	\$250.00 per year per two spaces
Sidewalk Cafe Application fee .....	\$100.00
Sidewalk Patio Application Fee.....	\$100.00
Right of Way Use fee.....	\$1.00 per square foot of licensed area not to exceed \$600 for each 2-year term.

Section 6.     **VIOLATIONS**

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of McKinney.

Section 7.     **REPEALER CLAUSE**

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 8.     **SAVINGS CLAUSE**

All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 9.     **SEVERABILTY CLAUSE**

If any section, subsection, paragraph, sentence, phrase, or clause of this Ordinance, shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of the Ordinance are declared to be separable.

Section 10.    **PUBLICATION OF CAPTION**

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney.

Section 11.   **EFFECTIVE DATE**

This ordinance shall become effective on August 1, 2022.