

ARTICLE VI. PARKLETS AND SIDEWALK USE AREAS

Section 90-360. Parklets permitted in certain areas Title.

This article shall be known and cited as the "Parklets and Sidewalk Use Areas Ordinance for the City of McKinney, Texas."

Section- 90-361. Purpose and Scope

(a) The Purpose of- this section Sidewalk Use Areas and Parklets is to allow businesses within certain areas of downtown McKinney to utilize public sidewalks and spaces for additional retail and restaurant spaceadditional outdoor seating for customers.

(b) Sidewalk Use Areas including sidewalk cafés and sidewalk patios, shall be permitted within the geographical limits of the city, only in the areaszone identified in figure 1 below.



Figure 1- Sidewalk Use Zone

(c) Parklets shall be permitted ~~within the geographical limits of the city,~~ only in the ~~areas~~area identified in figure 2 below. Parking spaces located on those block-faces directly across from the Historic Collin County Courthouse are not eligible for conversion into parklets.

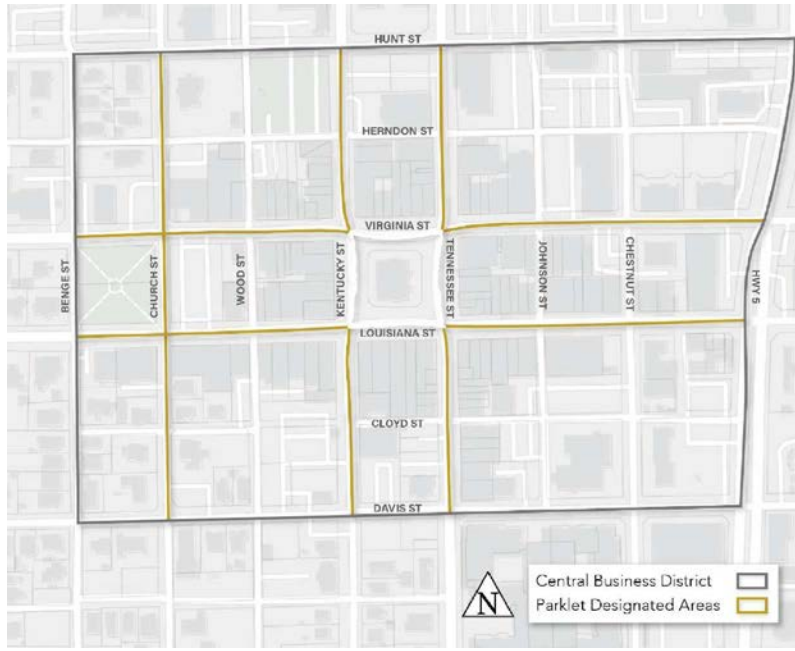


Figure 1 Figure 2 – Central Business District and Parklet Designated Area

Section 90-362. Authority

- (a) The Director of Planning, or their designee, is authorized to administer and enforce the provisions of this article.
- (b) The Director of Planning, at their sole discretion, **may forward** a Sidewalk Use Area or Parklet permit application to the City Council for review and approval.
- (c) The Director of Planning, or their designee, is authorized to enter a construction site for which a permit is granted under this Article or, where necessary, upon private property adjacent to the construction site for purposes of inspection to determine compliance with the permit and this article.

Section 90-363. Outdoor Merchandise Displays

- (a) Businesses located within the sidewalk use zone shown in Section 90-361, figure 1 shall be allowed to utilize the public sidewalk for the limited outdoor display of freestanding goods and materials immediately adjacent to the business' associated storefront or building façade without the need for a sidewalk patio, sidewalk café or

parklet permit or license agreement. Such display shall not be affixed to any portion of the public sidewalk and shall not conflict with any other requirements of this article or any other requirements of the McKinney Code of Ordinances and shall at all times comply with the accessibility requirements contained in applicable state and federal law.

- (b) Should the Director of Planning, or their designee, determine in their sole opinion that any outdoor display described in subsection (a) herein to be in violation of any local, state, or federal regulation, or to be a detriment to the City's health, safety, and/or wellbeing, said outdoor display shall be removed within twenty-four (24) hours and may return only upon the written approval by the Director of Planning.

Section- 90-364. Definitions

(a) Parklet: An extension of the sidewalk over on-street public parking space(s) that serves as additional restaurant seating and dining space.

(b) Sidewalk Use Area, Sidewalk Cafe: An outdoor dining area that:

(1) is located on the public sidewalk;

(2) is associated with and directly adjacent to a ~~restaurant use or food~~ establishment as defined in Section 46-2 of the Code of Ordinances, City of McKinney;

(3) is open to the air, except for a canopy, and not enclosed by fixed walls; and

(4) contains seating, tables, chairs, plants and other appurtenances not exclusively prohibited herein.

(c) Sidewalk Use Area, Sidewalk Patio: An outdoor seating area that:

(1) is located on the public sidewalk;

(2) is associated with and directly adjacent to a retail business or other ~~retail~~ establishment that is not a food establishment as such term is defined in Section 46-2 of the Code of Ordinances, City of McKinney; and

(3) contains seating, tables, chairs, plants and other appurtenances not exclusively prohibited herein.

Section 90-365-369, reserved

Section- 90-370. Parklets

I. Permitting and Licensing Requirements

- (a) Except as otherwise prohibited herein, businesses operating in the parklet designated area shown in Section 90-361, figure 2~~Central Business District as defined in section 62-445 of the city's code of ordinances, as amended, herein,~~ may apply for a permit to close off and convert on-street parking spaces directly adjacent to the business into a parklet to allow for additional space for customers. ~~Parking spaces located on those block faces directly across from the Historic Collin County Courthouse are not eligible for conversion into parklets. See Figure 1.~~
- (b) Issuance of a parklet permit along with all necessary construction and building permits shall be required prior to installation of a parklet.
- (c) Contemporaneously with the issuance of a parklet permit, the permit holder shall execute a license agreement with the City of McKinney stating, among other things, that the permit holder will (i) be responsible for the maintenance of the permitted area, (ii) defend, indemnify, and hold the City harmless against all damages, costs, and expenses resulting from any activity carried on under the terms of the permit, (iii) maintain general liability insurance coverage continuously during the term of the license agreement; and (iv) comply with all local, state and federal laws, including compliance with the Americans with Disabilities Act.

II. Application Requirements and Terms

~~—(a) Application Requirements.~~

(a) A parklet permit application shall include the following:

1. Scaled plans and color elevations of the proposed parklet;-
2. Valid copy of T.A.B.C. and City of McKinney alcohol and/or food services licenses and permits;-
3. ~~Receive a~~ Approved Certificate of Appropriateness or letter of suitability from the ~~planning department~~ Historic Preservation Officer;
4. ~~Receive written approval from all~~ Letter- from immediately adjacent property or businesses owners indicating no opposition to the proposed parklet; and-
5. Proof of ownership or lease that covers the term of the permit.

(b) Application and Renewal Fees. The fee for a parklet permit and renewal permit required by this Section shall be as determined from time to time by the City Council and shall be paid prior to ~~the~~ issuance of ~~the a~~ permit.

~~(b) The planning director, at their sole discretion, may submit a parklet permit application to city council for review and approval.~~

(c) Permit Term and Expiration Date. A Parklet permit shall be valid for two ~~years~~ years and shall expire on the date indicated in ~~the~~ the executed license agreement. Upon expiration of the parklet permit and license agreement, all tables, chairs and other appurtenances associated with the parklet shall be removed from the parklet area unless a renewal permit is issued pursuant to the provisions of this Code.

(d) Renewals. A parklet permit may be renewed with the submittal of a renewal application at least 60 days prior to the expiration of the permit.

1. Renewal applications shall include:

i. Valid T.A.B.C. and City of McKinney alcohol and/or food services licenses and permits;

ii. eCertificate of insurance compliant with the City's current insurance requirements; and

~~—an executed license agreement for the new term; and~~

iii. the renewal fee.

III. -Transferability, Revocation, and Suspension

(a) A parklet permit shall not be transferable from one owner or owners to another.

(b) The city reserves the right to revoke any permit issued under this section should the applicant violate the minimum requirements contained herein, or any other provision of the city's Code of Ordinances or other relevant law, in addition to all other remedies permitted by law, including the issuance of a citation.

(c) The city reserves the right to suspend any permit issued under this article should the business operating the parklets ~~should~~ close or cease operations.

IV. Minimum Standards, Parklets.

(a) Parklets must conform to the following requirements:

1. (4) — No more than two parking spaces per block-face may be converted into a parklet, except as provided for in subsection (a)(ii), herein;
2. (2) — Each parklet shall be no larger than two parking spaces and no smaller than one parking space, unless multiple adjacent businesses apply for a joint parklet, in which case a larger space may be approved by the planning department;
3. (3) — Each parklet must be located directly in front of the applicant's business, preferably at the end of any parking lane, such as a corner or bump out;
4. (4) — Parklets shall be constructed such that the floor of the parklet is level with the curb and sidewalk;
 - i. a. — Where such parklets are elevated above the parking surface, a commercial alteration permit must be obtained prior to installation.
 - ii. b. — Parklets elevated above the ground must have a fixed guardrail compliant with relevant building codes and accessibility standards and at least 36 inches in height. See [Figure-figure 13](#).

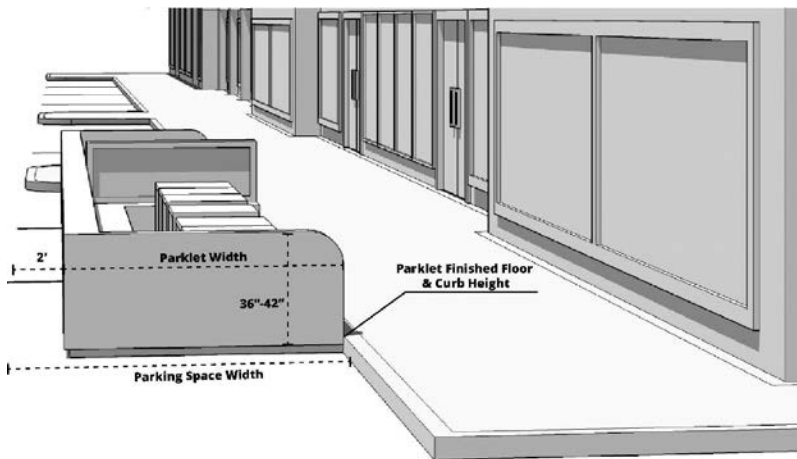


Figure 23 - Parklet base elevations

5. (5) Parklets constructed at grade must be surrounded by a decorative barrier element on all sides of between 30 inches to 42 inches in height;
6. (6) Parklets must keep two-feet clear on all sides of the parklet not adjacent to the sidewalk. See [Figure-figure 24](#);

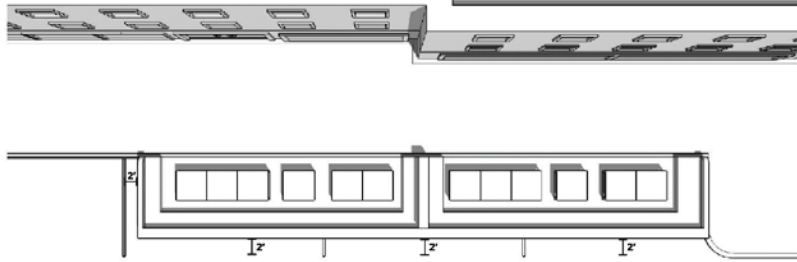


Figure 34 - Parklet plan setbacks

7. ~~(7)~~—Parklets must include an approved traffic barrier on all sides that face a public roadway or adjacent parking space or loading zone;
 8. ~~(8)~~—Parklets must be situated such that a minimum four-foot wide free and clear pedestrian path is maintained on the adjacent sidewalk.
 9. ~~(9)~~—Parklets constructed with a finished floor above the finished grade of the parking surface shall have a minimum design load of 100 pounds per sf.
 10. ~~(10)~~—Parklets may not be located in a parking space directly adjacent to a storm drain;
 11. ~~(11)~~—Parklets may not be located in front of a fire hydrant;
 12. ~~(12)~~—Parklets must have a portable fire extinguisher present during business operating hours;
 13. ~~(13)~~—Parklets may not be located in a handicap accessible parking space or a designated loading zone space;
 14. ~~(14)~~—Applicant must provide the insurance coverage required by city with the city named as an additional insured and a waiver of subrogation in favor of the city; and
 15. ~~(15)~~—Alcohol service in any parklet must conform with those requirements established by the Texas Alcoholic Beverage Commission (TABC) and provide proof of TABC permitting, city permitting, and liquor liability insurance in favor of the city.
- (b) At the business owner's discretion, parklets may also include site furniture, planters, heaters that comply with current city Fire Code requirements (during business operating hours only), overhead lighting (subject to additional review and/or permitting), signage, umbrellas, and lighting, if appropriately placed.
- (c) The following are prohibited at parklets:
- (1) Tents, canopies, or screen enclosures above 42 inches as measured from the walking surface of the parklet; and
 - (2) Portable generators;

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- (3) Heaters and site furniture may not encroach into the sidewalk or adjacent parking spaces.
 - (d) It shall be the responsibility of the business owner to ensure that the parklet conforms to all local, state, and federal accessibility requirements, including those contained in the Americans with Disabilities Act (ADA) and shall be at all times solely liable for any such violations.

Section 90-374-379, reserved

Section 90-380. Sidewalk Use Area,- Sidewalk Café

I. Permitting and Licensing Requirements

- (a) Except as otherwise prohibited herein, restaurants and food establishments operating in the Sidewalk Use Zone shown in Section 90-361, figure 1a~~s~~, as amended, may apply for a permit to utilize a limited portion of the public sidewalk as a sidewalk café.
- (b) Issuance of a sidewalk café permit along with all necessary construction and building permits shall be required prior to installation of a sidewalk café.
- (c) Contemporaneously with the issuance of a sidewalk café permit, the permit holder shall execute a license agreement with the City of McKinney stating, among other things, that the permit holder will (i) be responsible for the maintenance of the permitted area, (ii) defend, indemnify, and hold the City harmless against all damages, costs, and expenses resulting from any activity carried on under the terms of the permit, (iii) maintain general liability insurance coverage continuously during the term of the license agreement; and (iv) comply with all local, state and federal laws, including compliance with the Americans with Disabilities Act.
- (d) Issuance of a fence permit if installing a fence.

II. Application Requirements and Terms

- (a) Application Requirements. A sidewalk café permit application shall include the following:
 - 1. Plan or drawing showing:
 - i. location of the proposed sidewalk café;

ii. type and location of physical barriers proposed to delineate and visually separate the sidewalk use area and method by which they will be secured to the sidewalk;

iii. layout and number of tables, chairs, and other furnishings;

iv. distance between the sidewalk use area barrier(s) to the curb or permanent obstruction(s); and

v. scaled elevations of proposed barriers.

2. Approved Certificate of Appropriateness or letter of suitability from the Historic Preservation Officer;

3. 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;

4. Valid Texas Alcoholic Beverage Code and City of McKinney Alcoholic Beverage Service permits, if applicable; and

(b) Application and Renewal Fees. The fee for a sidewalk café permit and renewal permit required by this Section shall be as determined from time to time by the City Council and shall be paid prior to issuance of a permit.

(c) Term and Expiration Date. A sidewalk café permit shall be valid for two years and shall expire on the date indicated in the executed license agreement. Upon expiration of the permit and license agreement, all tables, chairs and other appurtenances associated with the sidewalk café shall be removed from the sidewalk use area unless a renewal permit is issued pursuant to the provisions of this Code.

(d) Renewals. A sidewalk café permit may be renewed annually with the submittal of a renewal application by the owner and/or lessor at least 60 days prior to the expiration of the permit.

1. The renewal application must include:

i. Valid T.A.B.C. and City of McKinney alcohol and/or food services permits;

ii. Certificate of insurance compliant with the City's current insurance requirements; and

—an executed license agreement for the new term.

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III. Transferability, Revocation and Suspension

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- (a) A sidewalk café permit issued by the city shall not be transferable from one owner or owners to another.
 - (b) The city reserves the right to revoke any permit issued under this section should the applicant violate the minimum requirements contained herein, or any other provision of the city's Code of Ordinances or other relevant law, in addition to all other remedies permitted by law, including the issuance of a citation.
 - (c) Suspension. The city reserves the right to suspend any permit issued under this article should the business operating the sidewalk café close or cease operations.

IV. Minimum Design Standards, Sidewalk Cafés

- (a) A physical barrier to delineate the space to be used by the permit holder shall be installed subject to the following requirements:
 - (1) Barriers in the form of a fence, balustrade or other similar fencing material shall be installed at a height of no less than 36 inches and no taller than 42 inches.
 - (2) Barriers in the form of planters and benches shall reach a minimum of 20 inches in height and a maximum of 42 inches in height, as measured from the top of the plant.
 - (3) Living plant screens shall not be an acceptable barrier material.
- (b) The sidewalk cafe area shall be monitored by an employee at all times to ensure that no alcoholic beverages are removed from the sidewalk use permit area.
- (c) Signage must be posted in the area indicating:
 - (1) The Permit Type and restrictions of the Sidewalk Use Area. Signage must indicate that alcoholic beverages may not be removed from the sidewalk café area.
 - (2) A sketch of the permitted area and exits.

Section 90-381. Sidewalk Use Area, Sidewalk Patios

I. Permitting and Licensing Requirements

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- (a) Except as otherwise prohibited herein, retail establishments operating in the Sidewalk Use Zone shown in Section 90-361, figure 1, herein, as amended, may apply for a permit to utilize a limited portion of the public sidewalk as a sidewalk patio.
 - (b) Issuance of a sidewalk patio permit along with all necessary construction and building permits shall be required prior to installation of a sidewalk patio.
 - (c) Contemporaneously with the issuance of a sidewalk patio permit, the permit holder shall execute a license agreement with the City of McKinney stating, among other things, that the permit holder will (i) be responsible for the maintenance of the permitted area, (ii) defend, indemnify, and hold the City harmless against all damages, costs, and expenses resulting from any activity carried on under the terms of the permit, (iii) maintain general liability insurance coverage continuously during the term of the license agreement; and (iv) comply with all local, state and federal laws, including compliance with the Americans with Disabilities Act.
 - (d) No food or beverage sales may occur within a sidewalk patio without a Special Events Permit.
 - (e) Notwithstanding Section 90-363, the display or sale of retail goods shall not be permitted within sidewalk patios

II. Application Requirements and Terms

- (a) Application Requirements. A sidewalk patio permit application shall include the following:
 - 1. Plan or drawing showing:
 - i. location of the proposed sidewalk patio;
 - ii. type and location of physical barriers proposed to delineate and visually separate the sidewalk use area and method by which they will be secured to the sidewalk;
 - iii. layout and number of tables, chairs, and other furnishings;
 - iv. distance(s) from the sidewalk use area barrier(s) to the curb or permanent obstruction; and
 - v. scaled elevations of all proposed barriers.

2. Approved Certificate of Appropriateness or letter of suitability from the Historic Preservation Officer;

3. Certificate of Occupancy for the associated business.

(e) Application and Renewal Fees. The fee for a sidewalk patio permit and renewal permit required by this Section shall be as determined from time to time by the City Council and shall be paid prior to issuance of a permit.

(f) Term and Expiration Date. A sidewalk patio permit shall be valid for two years and shall expire on the date indicated in the executed license agreement. Upon expiration of the permit and license agreement, all tables, chairs and other appurtenances associated with the sidewalk patio shall be removed from the sidewalk use area unless a renewal permit is issued pursuant to the provisions of this Code.

(g) Renewals. A sidewalk patio permit may be renewed annually with the submittal of a renewal application by the owner and/or lessor at least 60 days prior to the expiration of the permit.

1. The renewal application must include:

i. Valid Certificate of Occupancy;

ii. Certificate of insurance compliant with the City's current insurance requirements; and

iii. an executed license agreement for the new term.

III. Transferability, Revocation and Suspension

(a) A sidewalk patio permit issued by the city shall not be transferable from one owner or owners to another.

(b) The city reserves the right to revoke any permit issued under this section should the applicant violate the minimum requirements contained herein, or any other provision of the city's Code of Ordinances or other relevant law, in addition to all other remedies permitted by law, including the issuance of a citation.

(c) The city reserves the right to suspend any permit issued under this article should the business operating the sidewalk patio close or cease operations.

IV. Minimum Standards, Sidewalk Patios

(a) A physical barrier to delineate the space to be used by the permit holder shall be installed subject to the following requirements:

(1) Barriers in the form of a fence, balustrade or other similar fencing material shall be installed at a height of no less than 36 inches and no taller than 42 inches.

(2) Barriers in the form of planters and benches shall reach a minimum of 20 inches in height and a maximum of 42 inches in height, as measured from the top of the plant.

(3) Living plant screens shall not be an acceptable barrier material.

(b) Signage must be posted in the area indicating:

(1) The Permit Type and restrictions of the Sidewalk Use Area.

(2) A sketch of the permitted area and exits.

Section 90-382. Clearances and Accessibility, All Sidewalk Use Areas

(a) Unless otherwise approved by the Director of Planning, all Sidewalk Use Areas shall maintain a minimum free and clear pedestrian path between the proposed sidewalk use area and the back of curb, pursuant to the distances identified in Table 1 below.

Table 1 -- Clear Pedestrian Path Requirements for Sidewalk Use Areas

<u>Sidewalk Width</u>	<u>Minimum Clear Pedestrian Path Required</u>
<u>< 8'</u>	<u>sidewalk use area not permitted</u>
<u>8' to 14'</u>	<u>5 feet</u>
<u>15' to 19'</u>	<u>8 feet</u>
<u>20 to 24'</u>	<u>10 feet</u>
<u>25' and greater</u>	<u>13 feet</u>
<u>Corner Clips</u>	<u>as determined by the Director of Planning</u>

NOTE: –Distances shall be measured from the closest point of the proposed barrier(s) to the back of curb or permanent obstruction. Measurements shall be rounded to the nearest whole number.

(b) In instances where the sidewalk includes a permanent obstruction such as a ramp, stairs, or city-owned planter, a clear pedestrian path between the sidewalk use area and the permanent obstruction must be maintained pursuant to the distance requirements in table 1. Public egress and access to the building's entrances must also be maintained.

(c) Seating, tables, chairs, plants and other appurtenances may not encroach onto any adjacent property, or the minimum clear path.

(d) It shall be the responsibility of the business owner to ensure that the sidewalk use area conforms to all local, state, and federal accessibility requirements, including those contained in the Americans with Disabilities Act (ADA) and shall be at all times solely liable for any such violations.

Section 90-383. Prohibited Items, All Sidewalk Use Areas

(a) The following are prohibited at within all Sidewalk Use Areas:

- (1) Tents, or screen enclosures above 48 inches as measured from the walking surface of the sidewalk
- (2) Portable generators
- (3) Signage other than that required by this section.
- (4) Outdoor music without a special events permit.
- (5) Extension cords from inside the premises to the permitted area
- (6) Trash cans

Section 90-383, Violations

(a) Any person, firm, or corporation who violates any provision of this arti or fails to comply with any of the requirements thereof, or who shall build or alter any building, land, or use in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine in accordance with Section 1-18 of the McKinney Code, which may be amended from time to time by ordinance.

Section 90-384-390, reserved