

ORDINANCE NO. 2021-__-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 87, SECTION 87-70, "MINIMUM REQUIREMENTS," OF THE CITY'S CODE OF ORDINANCES BY AMENDING THE MINIMUM REQUIREMENTS FOR PARKLETS CONTAINED THEREIN; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE AND TERMINATION DATE.

WHEREAS, on December 15, 2020, the City Council previously amended its special events ordinance in response to the limited indoor occupancy requirements due to the COVID-19 pandemic to permit parklets to be located in certain parts of the City of McKinney and establishing minimum requirements thereof, which ordinance is codified in Chapter 87 of the Code of Ordinances of the City of McKinney; and

WHEREAS, due to the expiration of said indoor dining occupancy limits, the City Council of the City of McKinney finds and determines that certain amendments to the minimum requirements for parklets are necessary and in the interest of the health, safety, and well-being of the residents of the City of McKinney.

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

Section 2. **THE MCKINNEY CITY CODE, CHAPTER 87, SECTION 87-70, "MINIMUM REQUIREMENTS" IS HEREBY AMENDED BY AMENDING THE MINIMUM REQUIREMENTS FOR PARKLETS CONTAINED THEREIN**

From and after the effective date of this Ordinance, Chapter 87, Section 87-70, "Minimum Requirements" of the Code of Ordinances of the City of McKinney, Texas, is hereby amended to read as follows:

"Sec. 87-70. – Minimum Requirements.

- (a) All parklets must conform to the following requirements:
 - (i) No more than two (2) parking spaces per block-face may be converted into a parklet, except as provided for in subsection (a)(ii), herein;

- (ii) Each parklet shall be no larger than two (2) parking spaces and no smaller than one (1) parking space, unless multiple adjacent businesses apply for a joint parklet, in which case a larger space may be approved by the McKinney Town Center Development Coordinator;
 - (iii) 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;
 - (iv) Parklets must be surrounded by a decorative barrier element on all sides of between 30 inches to 42 inches in height;
 - (v) Parklets must keep 2 feet clear on all sides not providing access to the parklet from the sidewalk;
 - (vi) Parklets must include approved curb stops or other traffic barrier on all sides that face a public roadway or adjacent parking space or loading zone;
 - (vii) Parklets must have a portable fire extinguisher present during business operating hours;
 - (viii) 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;
 - (ix) Parklets may not be located in front of a fire hydrant;
 - (x) Parklets may not be located in a handicap accessible parking space or a designated loading zone space;
 - (xi) Parklets may not be located on a parking space with a storm drain; and
 - (xii) 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:
- (i) Tents or canopies; and
 - (ii) Portable generators.

- (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.
- (e) Unless otherwise extended by City Council, all parklets installed under this Article shall be removed by the close of business on December 31, 2021.”

Section 3. **REPEALER CLAUSE**

All ordinances, orders, or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, conflict with this Ordinance.

Section 4. **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 5. **SEVERABILITY CLAUSE**

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 6. **PUBLICATION OF CAPTION**

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council’s adoption hereof as provided by law.

Section 7. **EFFECTIVE AND TERMINATION DATE**

This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and shall terminate December 31, 2021, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 16th DAY OF MARCH, 2020.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney