

ORDINANCE NO. 2021-__-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 87 OF THE CITY'S CODE OF ORDINANCES, BY DELETING CHAPTER 87, ARTICLE VII, "PARKLETS" IN ITS ENTIRETY; AMENDING CHAPTER 90, "STREETS AND SIDEWALKS" BY PERMITTING PARKLETS IN CERTAIN AREAS AND ESTABLISHING MINIMUM REQUIREMENTS THERETO BY ADDING A NEW ARTICLE VI, TO BE ENTITLED "PARKLETS"; 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 DATE.

WHEREAS, on December 15, 2020, the City Council amended its special events ordinance in response to the limited indoor occupancy requirements due to the COVID-19 pandemic to temporarily permit parklets to be located in certain parts of the City of McKinney and establish minimum requirements thereof; and

WHEREAS, on March 16, 2021, the City Council amended said requirements to allow for the temporary use of parklets through December 31, 2021; and

WHEREAS, the City Council finds that parklets are compatible with the pedestrian-oriented environment in downtown McKinney and an expiration date for the program is no longer necessary; and

WHEREAS, the City Council believes it is in the best interest of the residents of the City of McKinney and the businesses located in the McKinney Central Business District to establish revised permitting procedures and minimum requirements for the placement of parklets in certain areas of the City as provided for herein.

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, ARTICLE VII, "PARKLETS" IS HEREBY DELETED IN ITS ENTIRETY.

Section 3. **THE MCKINNEY CITY CODE OF ORDINANCES, CHAPTER 90, “STREETS AND SIDEWALKS” IS HEREBY AMENDED BY PERMITTING PARKLETS IN CERTAIN AREAS AND ESTABLISHING MINIMUM REQUIREMENTS THERETO BY ADDING A NEW ARTICLE VI, TO BE ENTITLED “PARKLETS”.**

From and after the effective date of this Ordinance, Chapter 90, “Streets and Sidewalks” of the Code of Ordinances of the City of McKinney, Texas, is hereby amended to add a new Article VI, entitled “Parklets,” to read as follows:

“ARTICLE VI. - PARKLETS

Sec. 90-360. – Parklets Permitted in Certain Areas.

- (a) Except as otherwise prohibited herein, businesses operating in the Central Business District as defined in Section 62-445 of the City’s code of ordinances, as amended, 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.

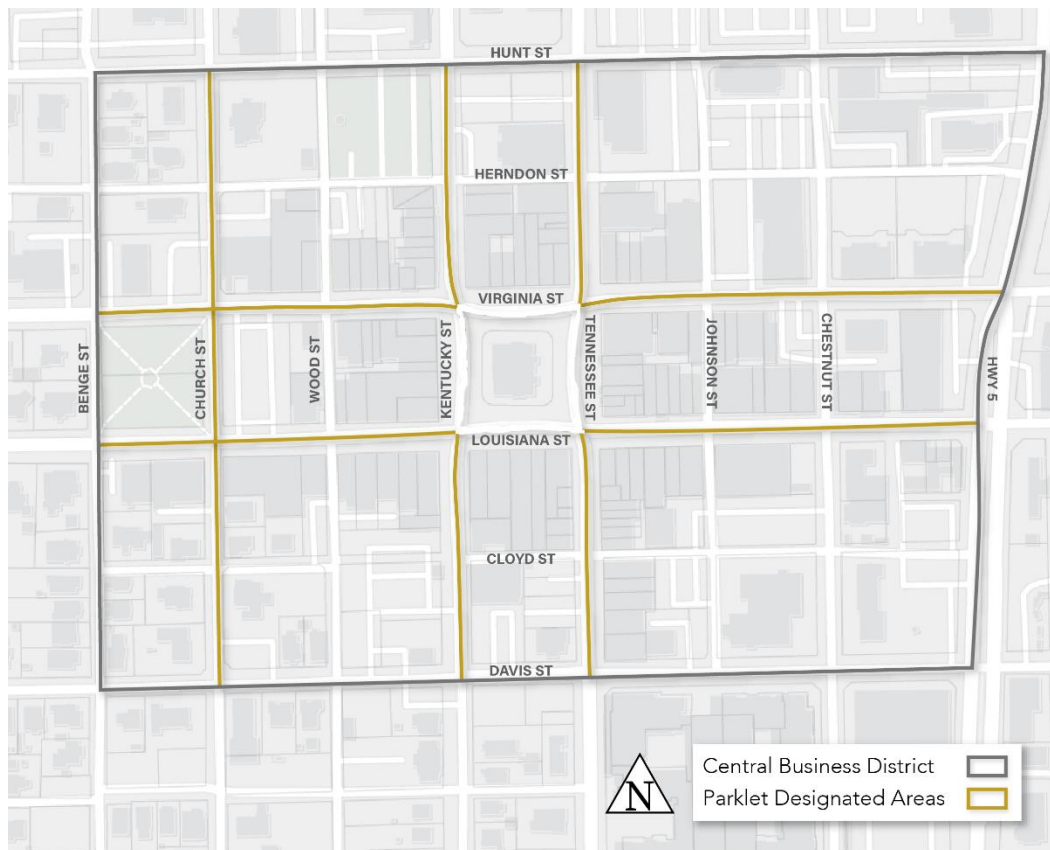


Figure 1- Central Business District and Parklet Designated areas.

- (b) Prior to submitting an application for a parklet permit, applicants must:
 - 1. Receive written approval from all immediately adjacent businesses;
 - 2. Receive a certificate of appropriateness from the planning department; and
 - 3. Submit proof of ownership or a lease that covers the term of the permit.
- (c) The Planning Director, at their sole discretion, may submit a parklet permit application to City Council for review and approval.
- (d) Parklets shall be designed and engineered by the permit applicant or rented from a third-party that conforms to the minimum requirements outlined in Section 90-361 of this article.
- (e) The fee for the permit required by this section shall be as determined from time to time by city council and shall be paid prior to the issuance of the permit.
- (f) The City reserves the right to revoke any permit issued under this Article should the applicant violate the Minimum Requirements contained in Sec. 90-361, 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.

Sec. 90-361. – Minimum Requirements

- (a) 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 Planning Department;
 - (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 shall be constructed such that the floor of the parklet is level with the curb and sidewalk;
 - (a) Where such parklets are elevated above the parking surface, a commercial alteration permit must be obtained prior to installation.
 - (b) Parklets elevated above the ground must have a fixed guardrail compliant with relevant building codes and accessibility standards and at least 36" in height. See Figure 1.

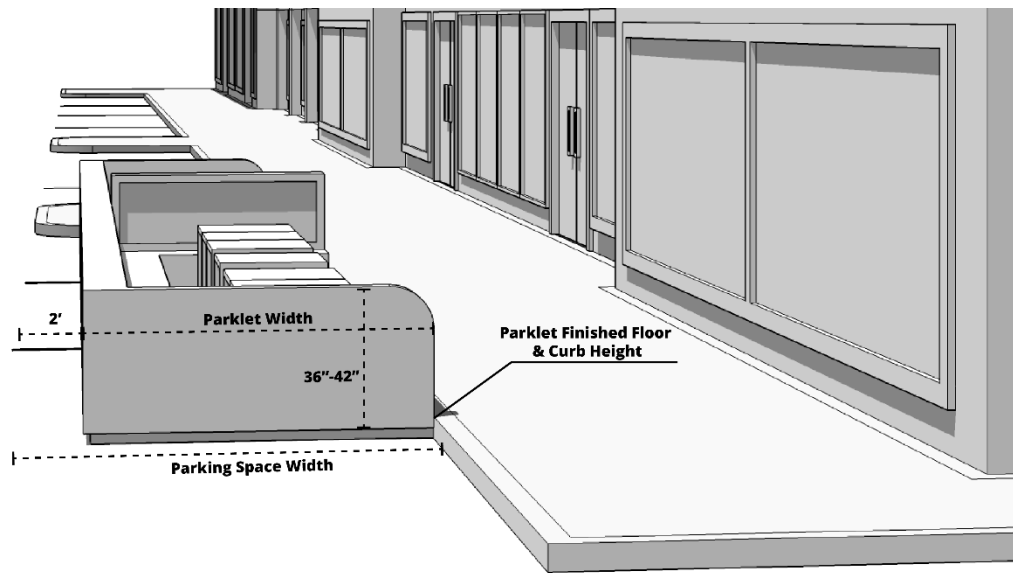


Figure 2- Parklet base elevations

- (v) Parklets constructed at grade must be surrounded by a decorative barrier element on all sides of between 30 inches to 42 inches in height;
- (vi) Parklets must keep two-feet (2') clear on all sides of the parklet not adjacent to the sidewalk. See figure 2;

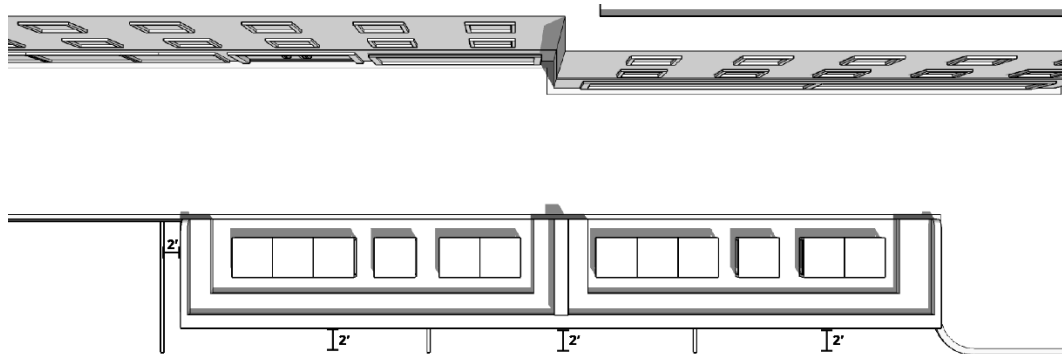


Figure 3 - Parklet plan setbacks

- (vii) Parklets must include an approved traffic barrier on all sides that face a public roadway or adjacent parking space or loading zone;
- (viii) Parklets must be situated such that a minimum four-foot (4') wide free and clear pedestrian path is maintained on the adjacent sidewalk.

- (ix) 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.
 - (x) Parklets may not be located in a parking space directly adjacent to a storm drain;
 - (xi) Parklets may not be located in front of a fire hydrant;
 - (xii) Parklets must have a portable fire extinguisher present during business operating hours;
 - (xiii) Parklets may not be located in a handicap accessible parking space or a designated loading zone space;
 - (xiv) 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
 - (xv) 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, canopies, or screen enclosures above 42” as measured from the walking surface of the parklet; and
 - (ii) Portable generators.
 - (iii) 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 4. From and after the effective date of this Ordinance, Appendix A – Schedule of Fees, Chapter 90, “Streets and Sidewalks” of the Code of Ordinances of the City of McKinney, Texas is hereby amended to add Section 90-360, “Parklets Permitted in Certain Areas” regarding the fees for a Parklet License Agreement such that said provision shall hereafter read as follows:

Application: \$250 one-time fee

Parking Space Rental: \$250 per year per two spaces

Section 5. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of McKinney, Texas, shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 6. **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 7. **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 8. **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 9. **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 10. **EFFECTIVE DATE**

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7th DAY OF DECEMBER 2021.

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