

# TEMPORARY PARKLET APPLICATION FORM

Updated: May, 2020 – August, 2020



## CONTACT INFORMATION

Applicant's Name		Business Name	
Applicant's Phone #		Business Address	
Applicant's Email		Business Phone #	

## SIDEWALK CAFÉ INFORMATION

Proposed Sidewalk Café Address: \_\_\_\_\_

Nearest Intersection: \_\_\_\_\_ Number of Parking Spaces: \_\_\_\_\_

Total size of proposed Sidewalk Café: \_\_\_\_\_ Number of tables and chairs proposed: \_\_\_\_\_

Estimated Project Cost: \$ \_\_\_\_\_ Hours/Days of Operation: \_\_\_\_\_

Food Service Permit Number issued by Environmental Health Department: \_\_\_\_\_

Conditional Use Permit Number issued by Planning & Development Services: \_\_\_\_\_

I understand that no alcoholic beverages and no smoking is permitted within the temporary parklet.

Type of business if not restaurant / bar: \_\_\_\_\_

I have read and understand the *City of San Marcos Temporary Parklet Manual*, and *Ordinance 2020-30* which covers responsibilities, design guidelines, and technical requirements.

I understand that this permit will expire and the temporary parklet must be removed on or before August 14, 2020.

## DESIGNER / CONTRACTOR INFORMATION

(If Known):

Designer/Contractor Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## AUTHORIZATION

*I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.*

App Fee: \$0

Submission of this digital Application shall constitute as acknowledgement and authorization to process this request.

EMAIL APPLICATION TO – [PLANNINGINFO@SANMARCOSTX.GOV](mailto:PLANNINGINFO@SANMARCOSTX.GOV)



## CHECKLIST FOR TEMPORARY PARKLET APPLICATION

The following items are requested for consideration of this application. These and additional items may be required at the request of the Department	Comments
<input type="checkbox"/> Pre-application meeting with staff is required – email <a href="mailto:planninginfo@sanmarcostx.gov">planninginfo@sanmarcostx.gov</a> to schedule	
<input type="checkbox"/> Completed Application for Temporary Parklet	
<input type="checkbox"/> <b>Site Plan:</b> A map, survey, drawing, aerial photograph, site plan or similar information showing the footprint/outline of the proposed parklet, including dimensions of parklet, property lines, existing sidewalk width, existing parking stalls/alignment and all existing sidewalk furniture and obstructions; e.g. fire hydrants, utility poles, street trees, etc.	
<input type="checkbox"/> <b>Additional Design:</b> A description of type(s) of elements proposed to be placed in the parklet; e.g. tables, chairs, benches, planters/landscaping, bicycle parking, etc.	
<input type="checkbox"/> <b>Safety Measures:</b> A detailed description of safety elements that will be installed adjacent to travel lanes and open parking spaces	
<input type="checkbox"/> Completed License and Maintenance Agreement (provided by staff)	
<input type="checkbox"/> Proof of Insurance	
<b>**San Marcos Development Code Section 2.3.1.1(C): “Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete...”</b>	

Governor’s Report to Open Texas Compliance
<p>I _____ (applicant name) on behalf of _____ (company/business) have read and agree to follow the protocols, practices, and guidelines applicable to my business as specified in the <i>Governor’s Report to Open Texas</i> (and any potential amendments) at <a href="https://gov.texas.gov/organization/opentexas">https://gov.texas.gov/organization/opentexas</a>. I understand and agree that this permit may be revoked without a hearing if my business is found to be in violation of those protocols, practices, and guidelines after receiving a verbal warning from a city staff member.</p> <p>Signature of Applicant: _____ Date: _____</p> <p>Printed Name, Title: _____</p>



City of San Marcos

# TEMPORARY PARKLET MANUAL

Summer 2020



# PARKLETS INTRODUCTION

## INTRODUCTION

In cities across the country, there is a movement afoot to reclaim and repurpose underutilized spaces for people through the use of parklets. Parklets are the reuse of on-street parking spaces or unused portions of right-of-way to provide amenities and green space for the general public. Parklets are intended as aesthetic enhancements to the streetscape and can incorporate seating, plantings, bike parking, and art, providing an economical solution to the need for increased public open space. The City of San Marcos has enacted a Temporary Parklet Program to provide an aesthetic enhancement to the downtown streetscape and provide businesses with additional visible service area as a means to reactivate downtown following the COVID-19 stay at home orders of 2020.

## WHAT ARE PARKLETS?

Parklets are generally one or two parking spaces long and are built out of semi-permanent materials installed in a way that does not require reconfiguring the roadway or pouring concrete. By not requiring a concrete base, parklets are a fast and less expensive way for the City to bring vibrancy to downtown. Parklets are used to encourage pedestrian oriented development and have been shown to increase the economic activity of the neighborhood. While parklets are funded and maintained by businesses, residents, and community organizations, they are intended to provide benefits to all uses of the public rights-of-way.

## ORIGINS

The parklet initiative was first introduced in San Francisco in 2009 through a city-wide Park(ing) Day. The program encouraged citizens to design and install a temporary park within a parking space resulting in 975 “parks” in 162 cities across 35 countries and 6 continents. The San Francisco Planning Department led the initial effort to install a Parklet Pilot Program known as *Pavement to Parks*. In order to avoid a lengthy permit process, it defined this project as “removable” in character and implemented a unique design and construction guidelines manual.



## BENEFITS & PURPOSE

Parklets have significant implications for cities. By increasing pedestrian activity and encouraging pedestrians to linger in an area longer parklets encourage economic growth. San Francisco’s first parklet, sponsored by *Mojo Bicycle Café*, featured a simple design with bright red tables, silver chairs, and three bike racks. The results were impressive:

- ❖ 37% rise in weekday evening pedestrian traffic;
- ❖ 14% increase in the number of people walking their bikes within the study area;
- ❖ 10% rise in positive public perception of the area’s community character. As more cities and downtowns become aware of these advantages, it can be expected for parklets to continue to grow in popularity. With this, the trend of reclaiming space for people will continue to grow, one parking space at a time.

Parklets have the potential to increase commercial and residential occupancy, encourage pedestrian traffic, and highlight the character of the neighborhood.

# APPLICATION

## PRE-APPLICATION

Prior to submitting an application, applicants are **required** to schedule an appointment with the Planning and Development Services department to verify the viability of the location and proposed elements. Parklets should be proposed in areas where they are likely to be used and active. To schedule a meeting, please email [planninginfo@sanmarcostx.gov](mailto:planninginfo@sanmarcostx.gov) with your top 3 dates/times of availability.

## APPLICATION AND PROCESS

After the Pre-Development meeting, the applicant may begin the process of completing the application and supporting materials. Applications can be submitted online at [www.mygovernmentonline.org](http://www.mygovernmentonline.org). A completed application will include the following:

1. City of San Marcos Parklet Application
2. A map, survey, drawing, aerial photograph, site plan or similar information showing the footprint/outline of the proposed parklet, including dimensions of parklet, property lines, existing sidewalk width, existing parking stalls/alignment and all existing sidewalk furniture and obstructions; e.g. fire hydrants, utility poles, street trees, etc.
3. A description of type(s) of elements proposed to be placed in the parklet; e.g. tables, chairs, benches, planters/landscaping, bicycle parking, etc.
4. A detailed description of safety elements that will be installed adjacent to travel lanes and open parking spaces.
5. City of San Marcos License and Maintenance Agreement, approved by the City Manager.
6. Proof of Insurance as required

## NOTIFICATION TO NEIGHBORING BUSINESSES/OWNERS

After an application has been submitted, staff will notify the business owners and property owners adjacent to the parklet that a temporary parklet application has been submitted for review.

## APPROVAL

Once City staff determines an application is complete and meets the standards set forth below, the Planning and Development Services Department will issue an administrative temporary parklet permit.

## DURATION

Approved parklets will be permitted from the date the permit is issued until August 14, 2020. All parklet installations must be removed on or before August 14, 2020 in preparation for the Fall Semester at Texas State University. The owner of any parklet not removed on or before August 14, 2020 will be subject to immediate enforcement action. All approved parklets are temporary installations and are subject to removal with any violation of the permit, maintenance, or general procedure.



# DESIGN

The parklet design and location shall conform to the following design guidelines, as well as any additional standards made part of the approval of the individual parklet. Additional requirements and further details can be found in *Ordinance 2020-30*.

## 1. LOCATIONS

Parklets are allowed in parallel or angled parking spaces or within unused right-of-way. There shall be no more than two parklets per block face. Each parklet shall be limited to utilizing no more than two parking spaces;

## 2. CORNER LOCATIONS

The proposed parklet site shall be located at least one parking spot from a corner or protected by a bollard, sidewalk bulb-out, or other similar feature, if located at the corner.

## 3. SPEED LIMIT

Parklets are permitted where the posted speed limit is 30 mph or less. Streets with higher speed limits may be considered on a case-by-case basis.

## 4. STREET SLOPE

Parklets must be situated on streets with a running slope (grade) of five percent or less or provide a level surface to meet this grade.

## 5. BUFFERS & SAFETY ELEMENTS

Parklets shall be required to have a buffer to protect users from street traffic. Buffers can be either reflective tape, planters, durable seating, temporary railing/edging, or other visible, protective edging as approved by staff in the application process. Traffic cones are not recommended but may be allowed on a case-by-case basis.

Parklets must be situated a minimum of 2 feet from the nearest edge of traveled way. Planters used as edging features are required to be large and durable. All edging and buffering mechanisms will require City approval.

## 6. UTILITIES

Parklets shall not be allowed in front of a fire hydrant, or over a manhole, public utility valve, or cover. Curb and roadside drainage shall not be impeded by the parklet. If decking is being constructed, the decking should allow for easy access underneath and curbside drainage shall not be impeded. A gap of 6" should be maintained between the body of the deck and the asphalt to facilitate the movement of water.

## 7. ADA REQUIREMENTS

All elements of Parklets shall be constructed and/or installed to conform to the applicable provisions, rules, regulations, and guidelines of the Americans with Disabilities Act (ADA).

## 8. DESIGN FOR EASY REMOVAL

Parklets are temporary in nature and must be designed for easy removal. All removable furniture must be locked or stowed each night.

## 9. PARKLET DECKING

Parklet decking must be flush with the curb and may not have more than ½" gap from the curb. If decking is installed, a minimum 36" ADA accessible entryway to the parklet must be maintained for all parklets. Platforms shall not exceed a 2% cross slope. Decking will need to be constructed of durable material capable of withstanding weather elements. Deck installation shall not damage the sidewalk, street, curb, or any aspect of the public right-of-way. Due to the temporary nature of the parklet, any proposed decking shall not be allowed to be bolted into the asphalt.

## 10. EDGING

All proposed edging shall be visually permeable. Due to the temporary nature of the parklets, all edging or railing shall not be bolted to the asphalt. Therefore, any edging or railing will need to be removed each day so as not to blow away or fall when the parklet is not in use. The temporary railing shall be durable enough to stand on its own and should have a sturdy base.

## 11. VISUAL DESIGN

Parklet designs must maintain a visual connection to the street and not obstruct sight lines to existing businesses or roadway signage. While not visible from the sidewalk, the parklet's back is highly visible from across the street. Large blank walls, therefore, are discouraged.

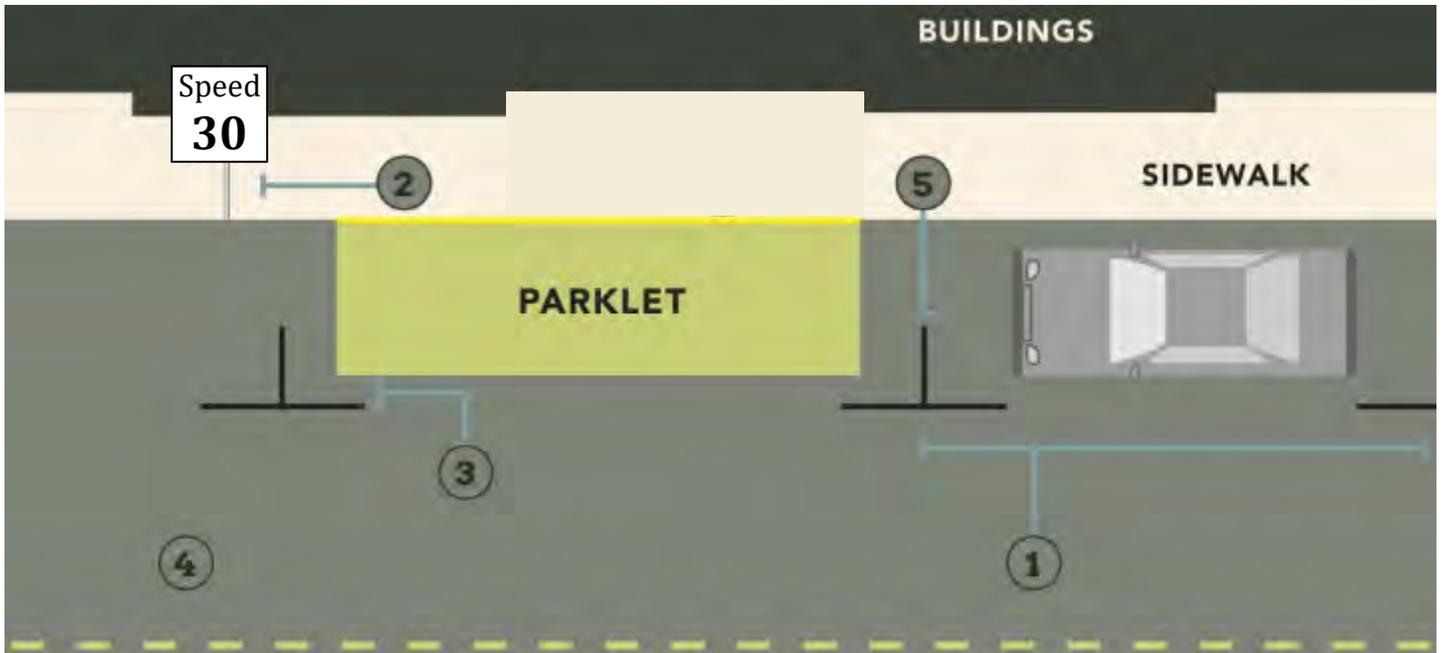
## 12. MATERIALS

Materials should be high quality, durable, waterproof, and capable of withstanding heavy use and exposure to the elements. Loose particles such as sand or loose stone are not permitted within the parklet area. All furniture must be designed for outdoor use. The following images outline allowed material and furniture types. Sofas as parklet furniture is prohibited.

**Allowed materials:** metals, sturdy plastic chairs, wood, sturdy recycled materials

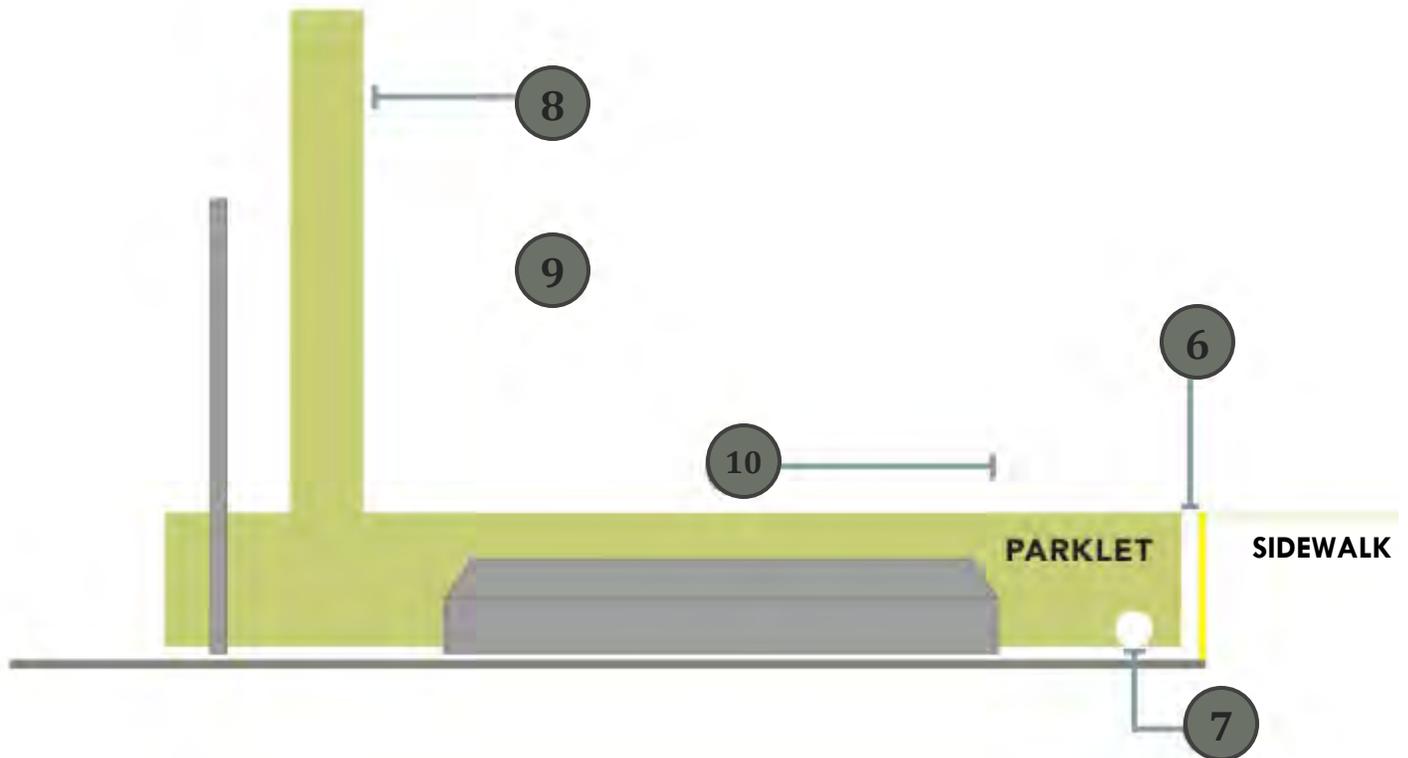


## PLACEMENT GUIDELINES



1. Located at least one parking stall from a corner (*If located at corner, parklet must be protected by a bollard, sidewalk bulb-out, or other similar feature*).
2. In an area with a posted speed limit of 30mph or slower.
3. Minimum of 2 feet from the nearest edge of traveled way.
4. Street has a grade of no greater than 5%.
5. Buffer to protect users from street traffic.

## DESIGN, cont.



6. If decking is installed, decking must be flush with the curb and may not have more than  $\frac{1}{2}$ " gap from the curb. If this is impossible, the parklet must be ADA accessible. A minimum 36" ADA accessible entryway to the parklet must be maintained for all parklets.
7. The platform should allow for easy access underneath the platform and curbside drainage may not be impeded. A gap of 6" should be maintained between the body of the deck and the asphalt to facilitate the movement of water.
8. All edging shall be visually permeable.
9. The temporary railing shall be durable enough to stand on its own and should have a sturdy base.

# RESPONSIBILITIES OF PERMIT HOLDERS

Parklets permit holders are responsible for the following. Additional requirements and further details can be found in *Ordinance 2020-xx*

- Keep parklet well maintained and in good repair with daily cleaning.
- Keep parklet free of debris, grime, and graffiti.
- Water and maintain all parklet vegetation.
- Provide pest control as needed.
- No alcohol is allowed in the parklet.
- No smoking is allowed in the parklet.
- Amplified music is prohibited in the parklet.
- The City will provide each parklet with signage advertising the sponsoring business in order to be placed in the parklet. No advertising signage is allowed in or on the parklet. The parklet may include informational signs such as “no smoking” or “no alcoholic beverages”.
- If food service is proposed within the parklet:
  - The kitchen facilities must be a permitted Food Service Establishment in good standing.
  - Food trays, carts, receptacles for dirty dishes, etc. shall not be placed or stored on any portion of the sidewalk or parklet.
  - Non-disposable dishes, silverware, and linens must be used to prevent items from blowing off tables.
  - Cooking appurtenances are prohibited within the parklet.
- Any proposed removable tables, chairs, planters or other appurtenances that should be locked or stowed nightly according to City standards and best methods. Bolting of fence/barrier is allowed with City approval.
- The permit holder must provide for at least one trash receptacle and one recycle bin that is emptied during the day and every night.

## TRASH & RECYCLING REQUIREMENTS

The permit holder is required to provide trash and recycling receptacles sufficient for the proposed use and is subject to the following requirements:

- Food service establishments must provide both receptacles which shall be no smaller than 10 gallons.
- Retail or other non-food service establishments must provide both receptacles, however a minimum size is not required.
- Receptacles must be emptied by the permit holder at any time they are visibly full.
- All waste and recycling generated within the parklet is the responsibility of the permit holder. This includes items that are blown from the parklet.
- Bin covers are encouraged.
- Black trash and blue recycling receptacles are encouraged.
- If the permit holder does not currently have access to recycling facilities, the permit holder will need to work with city staff to find an accessible recycling facility.

## ADDITIONAL RESOURCES

For additional information on parklet origins, design, and inspiration from other cities, please view the San Francisco Parklet Manual V.2, <http://pavementtoparks.sfplanning.org/parklets.html>.

**ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 74 OF THE SAN MARCOS CITY CODE BY ADDING AN ADDENDUM TO ARTICLE 6 THAT ESTABLISHES PROCEDURES AND CRITERIA FOR THE GRANTING OF TEMPORARY, REVOCABLE, LICENSES FOR PARKLETS AS A MEANS TO REACTIVATE DOWNTOWN FOLLOWING THE COVID-19 STAY AT HOME ORDERS OF 2020; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AS AN EMERGENCY MEASURE ON ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** Chapter 74, Streets and Sidewalks, of the San Marcos City Code is hereby amended by adding an addendum to Article 6 to read as follows:

**TEMPORARY PARKLETS PROGRAM 2020**

**Definitions.**

In this article:

*Parklet, Temporary* means a small area of land within a public right-of-way temporarily dedicated for use by the public for commercial or non-commercial activities and purposes, together with improvements, such as lighting, signage, paving, benches, sculpture, landscaping, barricades and fencing, in furtherance of such purposes.

*Public right of way* means a strip of land over which the city has authority used or intended to be used, wholly or in part by the city, as a public street or sidewalk, or for utility purposes.

*Sidewalk* means that portion of a public right-of-way, not including the street, that is paved for pedestrian traffic.

*Street* means that portion of a public right of way that provides primary vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive or other similar designation, including areas designated for on-street parking.

*Temporary Parklet Manual* means a manual approved by the city manager or the city manager's designee that establishes technical standards or specifications for authorized improvements and uses under this article that may be supplemented by other technical standards approved by the city manager or the city manager's designee.

#### **Authorized Temporary Parklet Licenses.**

- (a) The city manager or the city manager's designee may grant a temporary parklet special use license for a Temporary Parklet.
- (b) All other improvements in or uses of a public right-of-way not specified in this article addendum may only be approved as specifically provided by other ordinances or by the city council, subject to applicable laws.
- (c) A special use temporary parklet license granted under this article is a revocable grant of a privilege and is not a property right, nor conveyance of an interest in real property.

#### **Requirements for Temporary Parklet licenses.**

(a) *Uses and improvements not allowed.* No temporary parklet license may be granted under this article for:

- (1) any building or structure requiring a building permit, other than a neighborhood gateway feature, supportive or decorative column, arch or other structural or decorative feature of a building;
- (2) any improvement, facility or use, the installation or allowance of which would:
  - a. result in a violation of the Americans with Disabilities Act or any other applicable local, state or federal health or safety law or regulation;
  - b. unduly interfere with the free passage of vehicles on the street or of pedestrians on the sidewalk;
  - c. create a traffic hazard; unduly interfere with the safe and efficient operation of a utility facility;
  - d. create undue adverse impacts on adjacent property owners and businesses; or
  - e. block the sight visibility triangle at an intersection; or.

f. require the relocation of any utility or utility facility.

(b) *General requirements for all temporary parklet licenses.* A license applicable to permitted uses and improvements allowed under this article, shall include, as applicable:

- (1) all requirements set forth in the Temporary Parklet Manual or other applicable technical standards and specifications with which the Licensee must comply;
- (2) terms and restrictions necessary to protect public use of the public right-of-way or the facilities and access needs of a public or private utility provider;
- (3) specifications for required clearances between the improvements and utility facilities, whether above ground, underground or overhead, as prescribed by applicable building and health and safety codes, franchise agreements or state or federal laws;
- (4) a requirement that the licensee pay the cost to relocate a utility facility or improvement in a public right-of-way in connection with the installation of the improvements, if consent is granted for such relocation;
- (5) authorization for the city or a utility provider to remove, without liability, all or part of the improvements if necessary to obtain access to an affected utility facility;
- (6) provisions approved by the city attorney that require the licensee to indemnify, defend, hold harmless and release the city, its officers, agents, and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with licensee's use of public right-of-way;
- (7) a provision specifying that the term or expiration date of the license shall not exceed August 14, 2020.
- (8) a provision for termination of the license for violation of its terms, subject to notice of the violation and an opportunity to cure the violation within 5 calendar days after receipt of the notice, except that violation of the expiration date shall be addressed immediately.;
- (9) a provision for termination of the license by the city without recourse before the end of the license term when necessary to

implement a capital improvements or utility project, to address threats to public health or safety, or to mitigate adverse impacts to adjacent property owners and businesses caused by the improvement or use for which the license is granted;

- (10) a provision providing for the prompt removal of all improvements or cessation of uses upon termination of the license at the Licensee's expense, including the right of the city to remove improvements upon failure of the Licensee to do so and to recover the city's cost for such removal;
- (11) no more than two parklets shall be allowed per block face; and
- (12) *COVID-19 Requirements.* All temporary parklet licensees shall have read and shall follow the protocols, practices, and guidelines, as applicable to their business, specified in the Governor's Report to Open Texas, and any potential amendments, all of which will support a safe and measured reopening of Texas. Violations of this section shall result in the licensee receiving a verbal warning and an opportunity to comply with this section. If a second violation occurs, the parklet license may be revoked immediately and the parklet may be removed.

#### **Requirements for Temporary Parklets.**

- (a) *Approval of Temporary Parklets by city manager.* The city manager or the city manager's designee shall designate may approve applications for a temporary parklet that meets the established criteria.
- (b) *Approval of parklets by city council.* An application for approval of a parklet which does not meet the established criteria in a parking area of a street shall be considered by the city council after a public hearing on the application. Following the conclusion of the public hearing, the city council may approve a license agreement that identifies the parklet area and any applicable restrictions, or deny the application.

#### **Smoking and alcohol restrictions applicable to Temporary Parklets.**

- (a) Temporary Parklets approved under this article shall be subject to the same restrictions and prohibitions against smoking as are applicable to parks

pursuant to Chapter 34, Article 5 of the San Marcos City Code, together with applicable enforcement remedies and penalties thereunder.

(b) It is unlawful for any person to publicly consume or display alcoholic beverages within a parklet. No person shall be issued a citation or arrested for an offense under this subsection unless the person has first been issued a verbal warning and given an opportunity to comply with this section.

(c) In addition to any other remedies and penalties that may be pursued for a violation of this section, the city manager or the city manager's designee may revoke a license issued under this article to a licensee that commits a violation under this section.

### **Insurance**

(a) *Insurance for Temporary Parklets*

(1) No special use license shall be granted for a temporary parklet or sidewalk café unless the licensee files with the city manager or city manager's designee a certificate of liability insurance or other proof of insurance in a form acceptable to the city's risk manager confirming that the applicant has procured the insurance required by this section. If the policy is not kept in full force and effect throughout the term of the license, the special use license shall automatically become void and the improvements must be removed at that time.

(2) The insurance policy shall be issued by an insurance company authorized to do business in the state. The policy shall provide in substance that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the city, its officers, agents or employees. The insurance shall provide coverage in an amount of not less than \$1,000,000.00 for each single occurrence. The minimum amounts of insurance coverage may be increased by the city when it is in the best interest of the public. The policy of insurance shall name both the licensee and the city as insured parties to the full amount of the policy limits.

### **Application.**

(a) An application for a temporary parklet license under this article must be filed with the department designated by the city manager on a form approved by the city manager or the city manager's designee.

**SECTION 2.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

**SECTION 3.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 4.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 5.** The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the San Marcos City Charter requiring that ordinances be presented at two separate meetings are hereby waived and, this ordinance will take effect immediately upon adoption.

**PASSED, APPROVED AND ADOPTED** as an emergency measure on only one reading on May 5, 2020.

Jane Hughson

Mayor

Attest:

Approved:

Tammy Cook  
Interim City Clerk

Michael J. Cosentino  
City Attorney