

ORDINANCE NO. 2022-0029-O

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, CREATING A DOWNTOWN PARKLET PROGRAM THAT WILL ALLOW EXTENDED OUTDOOR DINING AND SEATING IN CITY ON-STREET PARKING SPACES AND RIGHTS-OF-WAY AND MOBILE FOOD UNIT OPERATION IN CITY ON-STREET PARKING SPACES IN THE CENTRAL AREA ZONING DISTRICT; AND PROVIDING A SEVERABILITY CLAUSE, REPEALING CLAUSE, SAVING CLAUSE, AN EFFECTIVE DATE, AND OPEN MEETINGS CLAUSE.

Whereas, the City passed a pilot program ordinance for outdoor dining, seating, and mobile food unit operation, without having to go through a full Street Use License (SUL) process, in the Central Area Zoning District (CA) on November 19, 2020;

Whereas, the City extended this pilot program ordinance on May 20, 2021;

Whereas, this pilot program ordinance expired on November 20, 2021;

Whereas, one of the purposes of the pilot program was to learn the positives and negatives of the program, to figure out what works and does not work, and to better understand the level of community interest in the program;

Whereas, since the pilot program was adopted by the Council, the City has received feedback from the City's downtown business community that the businesses are interested in participating in this program;

Whereas, thriving local businesses are vital to Temple's economic and community well-being, and the City Council is committed to employing innovative measures that increase resiliency for small business owners and their employees;

Whereas, in an effort to make the program permanent to allow for annual permit renewal opportunities for the \$50 fee (annual), Staff proposes to call it the Parklet Program in which *Parklet* means the use of City right-of-way to create additional outdoor seating and community gathering areas - cities all over the country, such as Asheville, North Carolina and Round Rock, Texas, have similar programs that have proven to be successful in promoting a vibrant downtown;

Whereas, at its April 4, 2022 meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval - Staff recommends Council approves an ordinance which will make a permanent extended outdoor dining and seating and mobile food unit operation program within the City's Central Area Zoning District;

Whereas, the pilot program tasked the City Manager to provide a recommendation to City Council, if it was in the best interest of the City, to make the pilot program permanent;

Whereas, the City Manager believes that it is in the best interest of the City to make this program permanent by passing an ordinance establishing a Downtown Parklet Program;

Whereas, the Downtown Parklet Program will improve access to available outdoor spaces for Temple's local, small business community by allowing these businesses to open at greater capacity and operate safely with more social distancing options to reduce transmission of communicable diseases;

Whereas, increased use of available outdoor space for dining and seating and use of mobile food units within the Central Area Zoning District will serve to attract more business activity, boost the local economy, and match best practices by urban planners for placemaking strategies to create pedestrian-friendly activity;

Whereas, the City believes that the Downtown Parklet Program will create additional places for people to gather and build community;

Whereas, the City Manager is authorized to set the fees for the Downtown Parklet Program under the ordinance, which will include permit applications, as well as permit renewals - the amount of revenue generated will depend on the number of applications and/or renewals submitted and will be deposited into Account No. 110-0000-412-0622; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions;

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Part 2: Downtown parklet program.

(a) Definitions.

In this ordinance the following words have the below meanings:

Bar means any establishment that derives more than 51% of its profits from alcohol sales.

City means the City of Temple, Texas, the City Council of Temple, Texas, or their representatives, employees, agents, or designees.

City Council means the governing body of the City.

City Manager means the City's city manager appointed by the City Council or the City Manager's designee.

Fire Department means the City's Fire Department or any employee or officer thereof.

Fire Marshal means the City's designated fire marshal or the Fire Marshal's designee.

Food product means any item used as food, drink, confectionary, or condiment for human consumption, whether simple or compound.

Mobile food unit or MFU means a vehicle-mounted mobile food establishment designed to be readily moveable and includes a food truck.

Municipal street is defined as provided by Sec. 316.001, of the Texas Transportation Code, as amended.

Operator means any person who owns, operates, or manages a restaurant, bar, or mobile food unit or is the operator's designee or agent.

Parklet means the use of City right-of-way to create additional outdoor seating and community gathering areas.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other entity or their legal representatives, agents, or assigns.

Police Department means the City's Police Department or any employee or officer thereof.

Sidewalk is defined as provided by Sec. 316.001, of the Texas Transportation Code, as amended.

(b) Establishment of downtown parklet program.

This ordinance creates a downtown parklet program that allows within the Central Area (CA) zoning district brick and mortar restaurants and bars that are legally allowed to operate to:

- (1) Use City on-street parking spaces and rights-of-way adjacent to the restaurant or bar for outdoor seating and dining; and
- (2) Coordinate with mobile food units through written agreements to sell food and beverages in City on-street parking spaces adjacent to the restaurant or bar.

(c) A map of the CA zoning district is on file with the City's Planning & Development Department.

- (d) The City may establish downtown parklet program policies, including, but not limited to, communicable disease, fire, and vehicular and pedestrian traffic safety policies.
- (e) This ordinance will be enforced by City Staff or City Departments as designated by the City Manager.
- (f) The City Manager may limit the number of permits that may be issued under this downtown parklet program, if necessary, for public health or safety reasons, to help prevent vehicular or pedestrian traffic congestion, increase available City parking, improve traffic flow, or for any other good cause.
- (g) Downtown parklet program requirements.
 - (1) This program only applies to the CA zoning district.
 - (2) Brick and mortar restaurant and bar operator requirements:
 - (A) Brick and mortar restaurant and bar operators are required to obtain a downtown parklet program permit if they wish to perform either of the two activities within the CA zoning district unless otherwise authorized under Subsection (g)(2)(B)(i), below:
 - (i) Use City on-street parking spaces and rights-of-way adjacent to the restaurant or bar for outdoor seating and dining; or
 - (ii) Coordinate with mobile food units through written agreements to sell food and beverages in City on-street parking spaces adjacent to the restaurant or bar.
 - (B) Effect of other City codes and policies.
 - (i) A brick and mortar restaurant or bar operator is not required to obtain a downtown parklet program permit issued under this ordinance or comply with any provision of this ordinance or downtown parklet program policy for an activity that is required to be permitted under Subsection (g)(2)(A), above, if the activity is otherwise authorized by:
 - a. A City outdoor special event permit;
 - b. A permit issued under Sec. 32-5, Permits for certain uses of streets, alleys, etc., of Chapter 32 of the City's Code of Ordinances;
 - c. A street use license issued under Sec. 32-21, Street Use or Encroachment License, of Chapter 32 of the City's Code of ordinances; or
 - d. Any other City permit or written City authorization.

- (C) A brick and mortar restaurant or bar operator wishing to participate in the City's downtown parklet program must apply for a permit as provided by the City's downtown parklet program policy and meet all of the downtown parklet program's criteria, comply with this ordinance and any downtown parklet program policy, and abide by the terms and conditions of their downtown parklet program permit.
- (D) Brick and mortar restaurant and bar operators permitted to use a City on-street parking space or rights-of-way for outdoor seating and dining under this program must:
 - (i) Have clearances between any object related to the permitted activity, including removable tables, umbrella, canopies, patio heaters, chairs, planters, signs, furniture, or other appurtenances, that comply with the clearances from structures to utility lines required by a nationally recognized building code;
 - (ii) Pay the costs to relocate a City or public facility or improvement in a municipal street if required for the permittee to conduct the permitted activity; and
 - (iii) Provide the City with proof of insurance at the time of application and maintain for the duration of the permit the following insurance coverages:
 - a. General Liability and
 - b. Alcohol Service (if applicable).
 - (iv) All insurance certificates must name the City of Temple, Texas as an additional insured and contain a waiver of subrogation in favor of the City.
- (E) Brick and mortar restaurant and bar operators must have a written agreement with mobile food unit operators for the mobile food unit operators to sell food or beverages in City on-street parking space(s) adjacent to the restaurant or bar under this program. Proof of written agreements must be provided to the City upon request.
 - (i) The restaurant or bar operator may only allow one MFU to operate in coordination with the restaurant or bar at a time under this program.
- (F) Brick and mortar restaurant and bar operators must submit a site plan, which can consist of a aerial map with hand-drawn dimensions and locations of MFU or outdoor furniture, with their downtown parklet program application and permit amendment application.
 - (i) Site plans must be approved by the City before a downtown parklet program permit may be issued.

(ii) Brick and mortar restaurant and bar operators must comply with City-approved site plans.

(iii) The site plan must include, as applicable:

a. The location of any tables, umbrellas, canopies, patio heaters, chairs, plants, signs, furniture, or other appurtenances related to the outdoor dining and seating that is proposed to be placed in the proposed permitted area; and

1. All such items must be securely anchored but may not be permanently affixed (any structural items within the paved street, such as a platform or deck, is not eligible for this permit and must obtain a Street Use License .

2. The brick and mortar restaurant and bar operators that have a written relationship with a MFU operator under this program may place tables, umbrellas, canopies, patio heaters, chairs, plants, signs, furniture, or other appurtenances related to outdoor dining or seating for use by the MFU's customers in the permitted area if approved by the City as provided by this Subsection (g)(2)(F).

b. The location and types of any barriers proposed to be placed around or in the proposed permitted area.

(3) Mobile food unit operator requirements:

(A) Mobile food unit operators are not required to obtain a permit under this program; however, mobile food unit operators are required to have a valid City mobile food unit permit issued under Chapter 14, Food and Food Establishments, of the City's Code of Ordinances, to operate under this downtown parklet program.

(i) Mobile food unit operators operated solely by nonprofits registered with the state as 501(c) organizations are exempt from obtaining a City permit issued under Chapter 14, Food and Food Establishments, but are not exempt from compliance with all other applicable local, state, and federal laws, rules, policies, guidelines, and regulations. The City may require any information necessary to determine whether an organization is a nonprofit for purposes of this exemption.

(B) Mobile food unit operators operating under this downtown parklet program must comply with all provisions of Chapter 14, Food and Food Establishments, unless

otherwise provided by this ordinance or authorized by other local or state law, rule, regulation, policy, guideline, or written City authorization.

- (C) Mobile food unit operators must have a written agreement with a brick and mortar restaurant or bar as provided by Subsection (g)(2)(E), above, to participate in this downtown parklet program. Proof of this written agreement must be provided to the City upon request.
 - (D) Only one MFU may operate in coordination with a brick and mortar restaurant or bar at a time under the downtown parklet program.
 - (E) Mobile food units may only be parked or operated in the specified City on-street parking space(s) authorized in the downtown parklet program permit's terms and conditions.
 - (F) Mobile food unit operators must comply with all traffic safety rules.
 - (G) Mobile food units must be removed from the permitted area when its coordinating brick and mortar restaurant or bar is closed for business.
 - (H) Unless otherwise provided by this ordinance or authorized by the City in writing, MFU operators may not place any tables, umbrellas, canopies, patio heaters, chairs, plants, signs, furniture, or other appurtenances outside of the MFU.
 - (i) A MFU operator with a written agreement with a restaurant or bar under this program may coordinate with the restaurant or bar to allow the MFU's customers to use the restaurant's or bar's outdoor seating or dining areas. A brick and mortar restaurant or bar operator with outdoor seating and dining areas may prohibit the use of these areas from use by a MFU's customers.
 - (I) Mobile food unit operators may not operate from a City on-street parking space under this program, if the MFU'S location is located within 100 feet of any existing brick and mortar restaurant on the same street as the parking space and the restaurant is primarily engaged in selling the same type of food product as that offered by the mobile food unit operator unless the mobile food unit is owned by the restaurant, the mobile food unit operator has acquired the written consent to operate at the proposed location by the restaurant owner or the owner's authorized agent, or the restaurant is closed at the time the mobile food unit is operating.
 - (i) The 100-foot distance will be measured from the closest point of the space in the building that is occupied by the restaurant – or by the food court in which the restaurant is located (rather than at the closest point of the building in which the restaurant is located) to the closest point of the mobile food unit.
- (4) All applicant, permittee, and operator requirements.

- (A) All applicants, permittees, and operators, including MFU operators, must comply with the latest version of the Texas Accessibility Standards and the Americans with Disabilities Act of 1990 (ADA), as amended.
- (B) The proposed or permitted activity or any item related to the proposed or permitted activity under this program may not be located on, extend onto, or intrude on:
 - (i) The roadway; or
 - (ii) A part of the sidewalk needed for pedestrian use.
 - a. Sidewalk clearance for pedestrian traffic must meet the City's sidewalk policy and state and federal requirements but in no case may be less thirty-six inches (36").
- (C) Persons performing activities under this program must comply with all City barrier requirements, including, but not limited to, erecting visible barriers around permitted areas.
- (D) The proposed or permitted activity or any item related to the proposed or permitted activity may not create a hazardous condition or obstruction of vehicular or pedestrian travel on the municipal street.
- (E) The design and location of the proposed or permitted activity or any item related to the proposed or permitted activity must include all reasonable planning to minimize potential injury or interference to the public in the use of the municipal street.
- (F) The permitted area may only be used when the permitted brick and mortar restaurant or bar is open for business.
- (G) No amplified sound equipment may be used in the permitted area unless otherwise approved by the City.
- (H) All items related to the permitted activity, including tables, umbrellas, canopies, patio heaters, chairs, mobile food units, plants, signs, furniture, or other appurtenances, must be kept clean, in good condition, which includes painting or staining wood tables and chairs to protect them from rain.
- (I) Fire lanes and ADA spaces may not be blocked by or used for any permitted activity.
- (J) The anticipated number of customers or attendees may not exceed the regular maximum occupancy limit of the business.

(J) The City or a utility company or other person authorized by the City may remove, without liability, any object authorized under this downtown parklet program if there is a lawful need for the permitted area or for access to the permitted area.

(K) If selling alcoholic beverages, the permittee or operator must obtain the proper authorization (e.g. license, permit, etc.) from the Texas Alcoholic Beverage Commission and provide the City with a written copy of this authorization. This authorization may be submitted with the downtown parklet program permit application or after a permit issued, but in all cases must be received by the City prior to the permittee or operator selling alcoholic beverages in an area permitted under this program. A permit amendment application is not required if a permit has already been issued to the applicable permittee or operator.

(L) The permittee and the operator must comply with the terms and conditions of a permit issued under this ordinance and any City downtown parklet program policies as well as all other applicable local, state, and federal laws, rules, and regulations.

(h) Permit Term.

(1) A downtown parklet program permit is valid for one year unless the permit is earlier terminated or expired.

(2) The City may issue a downtown parklet program permit that expires earlier than the time period specified in Subsection (h)(1), above, if another activity was approved by the City to occur in the same area proposed for the outdoor dining or mobile food unit parking or operation prior to the issuance of the permit or for other good cause.

(3) If a permittee has a valid downtown parklet program permit to use an area for outdoor dining or mobile food unit parking or operation, but the City schedules or has scheduled a special event, approves or has approved an activity to occur in the permitted area for a limited period, or if the City or a public utility has a temporary lawful need for the permitted area, the permittee must vacate the permitted area and, if required by the City or public utility, must remove any tables, umbrellas, canopies, patio heaters, chairs, plants, signs, furniture, or other appurtenances, and may not resume using the permitted area until the special event or approved activity is completed or the City or public utility no longer needs access to the area.

(i) Fees.

(1) An applicant must pay an applicable downtown parklet program fee, including application and fire safety inspection fees.

(2) The City Manager is authorized to set downtown parklet program fees.

(j) Permit Approval and Denial.

(1) The City will deny a downtown parklet program permit if:

(A) The applicant fails to:

- (i) Meet any of the requirements of a downtown parklet program policy or this ordinance,
- (ii) Pay a required fee under the downtown parklet program, including the application fee,
- (iii) Provide any needed documentation to the City related to the downtown parklet program,
- (iv) Provide sufficient safety, health, or portable sanitation equipment, services, or facilities that are reasonably necessary to ensure that the proposed activity will be conducted with due regard to safety,
- (v) Provide sufficient waste management services,
- (vi) Provide proof that the applicant possesses or is able to obtain a license, permit, or approval required by another City ordinance or other applicable law for the conduct of all activities included as part of the proposed activity, or
- (vii) Make City-required revisions to a pending application; or

(B) The City determines that:

- (i) The City cannot make a finding required under § 316.003 of the Texas Transportation Code, as amended,
- (ii) The applicant's proposed activity will violate any local, state, or federal law, rule, or regulation,
- (iii) The resources required to ensure public safety within the proposed activity's venue or its immediate surroundings will prevent the police, fire, or emergency medical services from providing reasonable protections to the remainder of the City,
- (iv) The concentrations of persons, animals, furniture, vegetation, structures, fences, fixtures or other items, equipment, or vehicles within the area proposed for the permitted activity will unduly interfere with the movement of police, fire, or other emergency vehicles,
- (v) The proposed activity will substantially interfere with any other permitted

activity for which a permit or application has been approved or with the provision of City services required to support scheduled or unscheduled government functions,

- (vi) The applicant's proposed site plan poses a threat to, or does not adequately address, public health or safety,
- (vii) The applicant or operator demonstrates an inability or unwillingness to perform the proposed activity in compliance with this ordinance, any downtown parklet program policy, or the terms or conditions of the permit issued under this ordinance,
- (viii) The applicant or the operator has conducted a prior special event or similar activity in a manner that failed to substantially comply with City Code or other local, state, or federal laws, rules, or regulations,
- (ix) The applicant or operator has had a special event permit, pilot program permit, or downtown parklet program permit, or street use license revoked within the preceding twelve (12) months,
- (x) The applicant or operator has received, within the preceding twelve (12) months, two (2) or more notices of violation or citations related to a provision of a special event permit, pilot program permit, downtown parklet program permit, or street use license,
- (xi) The Police Department, the Fire Department, or any other City employee or department or any public health official determines that the proposed activity would pose a threat to public health, safety, or welfare,
- (xii) The applicant or operator is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or operator,
- (xiii) The applicant or operator has a history of conducting or sponsoring special events or the proposed activity in a disorderly, unsafe, or unsanitary manner,
- (xiv) There is a code violation on the property where the proposed activity will take place,
- (xv) The proposed activity will interfere with the rights of nearby residents to the quiet, peaceable, and undisturbed enjoyment of their property, or
- (xvi) For other good cause.

- (2) The City must approve an application if none of the conditions of denial provided in Subsection (j)(1), above, apply. If the City denies an application, the City will provide a written reason for the denial to the applicant.
 - (3) The City must take final action to approve or deny an application no later than ten (10) business days after the application is deemed complete by the City.
 - (4) The City is not required to take action on an incomplete application.
 - (5) The City may require application modifications. In exercising this authority, the City may consider:
 - (A) The scope of the proposed activity;
 - (B) Traffic;
 - (C) Vehicular and pedestrian safety and other public safety concerns; and
 - (D) Parking.
- (k) Revocation of downtown parklet program permit.
- (1) The City may revoke a downtown parklet program permit if the City determines that:
 - (A) The City issued the permit in error;
 - (B) The permittee or operator is not complying or has not complied with the terms or conditions of a downtown parklet program permit or policy or this ordinance;
 - (C) The permittee or operator fails or failed to pay a downtown parklet program permit fee;
 - (D) The permittee or operator failed to obtain any other license, permit, or approval required by the City or other local, state, or federal law;
 - (E) The permittee or operator is failing or has failed to comply with any local, state, or federal law, rule, or regulation;
 - (F) The permittee or operator is failing or failed to provide sufficient safety, health, or portable sanitation equipment, services, or facilities that are reasonably necessary to ensure that the permitted activity is/was conducted with due regard to safety;
 - (G) The permittee or operator is failing or failed to provide sufficient waste management services;

- (H) The resources required to ensure public safety within the permitted activity's venue or its immediate surroundings will prevent the police or have prevented the police, fire, or emergency medical services from providing reasonable protections to the remainder of the City;
- (I) The concentrations of persons, animals, furniture, vegetation, structures, fences, fixtures or other items, equipment, or vehicles within the permitted area will or have unduly interfered with the movement of police, fire, or other emergency vehicles;
- (J) The permitted activity is, is likely, or has substantially interfered with any other permitted activity for which a permit or application had been previously approved or the provision of City services required to support scheduled or unscheduled government functions;
- (K) The permittee or operator is demonstrating or has demonstrated an inability or unwillingness to perform the permitted activity in compliance with this ordinance, downtown parklet program policy, or the terms or conditions of the downtown parklet program permit;
- (L) The permittee or the operator is currently conducting or has conducted a special event or similar activity in a manner that fails to substantially comply with City Code or other local, state, or federal laws, rules, or regulations;
- (M) The permittee or the operator has had a special event permit, pilot program permit, downtown parklet program permit, or street use license revoked within the preceding twelve (12) months;
- (N) The permittee or operator has received, within the preceding twelve (12) months, two (2) or more notices of violation or citations related to a provision of a special event permit, pilot program permit, downtown parklet program permit, or street use license;
- (O) The permittee made a false statement or omission of a material fact on the permittee's downtown parklet program application;
- (P) The permittee made a false statement or omission of a material fact on an application for a special event permit, pilot program permit, or street use license;
- (Q) The Police Department, the Fire Department, or any other City Staff or department or any public health official determines or determined that the permittee's or operator's activity poses a threat to public health, safety, or welfare;

- (R) The permittee or operator fails or has failed to maintain public order in or around the permitted location or conducts or has conducted the permitted activity in a disorderly, unsafe, or unsanitary manner;
 - (S) There is or was a code violation on the property at the location of the permitted activity;
 - (T) The permittee or operator is or was overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the operator;
 - (U) The permittee's or operator's activity interferes or interfered with the rights of nearby residents to the quiet, peaceable, and undisturbed enjoyment of their property;
 - (V) The City or a utility company determines that there is a lawful need for the permitted area or for access to the permitted area; or
 - (W) For other good cause.
- (2) The City may revoke a downtown parklet program permit after it issues a notice of intent to revoke.
- (A) The notice of intent must:
 - (i) Be in writing;
 - (ii) Specifically set forth the reasons for the revocation;
 - (iii) Specify the corrective measures required for compliance and to prevent revocation, if applicable; and
 - (iv) Provide the time period for compliance, if applicable.
 - (B) If a permittee or operator fails to take the corrective measures required for compliance provided in a notice of intent within the notice's provided time period for compliance, the City may issue a written permit revocation.
- (3) Regardless of Subsection (k)(2), above, the City may issue an immediate verbal revocation in person or by phone to the permittee or operator if an emergency exists that poses a threat to public health, safety, or welfare that requires immediate revocation.
- (l) Appeal of a downtown parklet program permit denial or revocation.

- (1) If the City denies a downtown parklet program permit application or revokes a downtown parklet program permit, the permittee may appeal the denial or revocation to the City Manager.
- (2) The permittee must file a written appeal that states the reason(s) the person is appealing to the City no later than ten (10) calendar days after the date the permittee or operator is notified that the application was denied or the permit was revoked. If the appeal is not timely and properly filed within this ten (10) day period, the denial or revocation will become final.
 - (A) A permittee or operator is deemed to have been notified of a permit application denial or permit revocation either when:
 - (i) The permittee or operator is personally served with the denial or revocation;
 - (ii) Five (5) calendar days after the City deposits the denial or revocation in the mail; or
 - (iii) The City issues an immediate verbal revocation as provided in Subsection (k)(3), above.
- (3) The City Manager must act upon the appeal within ten (10) calendar days of the date the appeal is filed with the City and may uphold or reverse the denial or revocation. The City Manager's decision is final.

(m) Removal of property after permit termination.

A permittee whose downtown parklet program permit has been terminated or revoked or whose permit has expired must remove all items related to the formerly permitted activity from the permitted area, including mobile food units, tables, umbrellas, canopies, patio heaters, chairs, plants, signs, furniture, or other appurtenances, unless the items are otherwise authorized under other local, state, or federal law, rule, or regulation, and restore the City's right-of-way to its original condition, if applicable.

(n) Downtown parklet program permit amendment application.

- (1) A permittee may apply to amend the terms and conditions of their permit, including adding new mobile food unit locations, adding new furniture, plants, signs, or the like, or expanding their outdoor dining or seating footprint, etc., by submitting a new downtown parklet program application and paying any required amendment application fee.
- (2) The City will take final action to approve or deny an amended application no later than ten (10) business days after the application is deemed complete by the City.

(o) Offense and penalty.

(1) Criminal prosecution.

(A) Criminal prosecution.

- (i) A person who violates a provision of this ordinance, downtown parklet program policy, or term or condition of a permit issued under this ordinance is guilty of Class C misdemeanor. A person commits a separate offense for each day or part of a day during which a violation is committed or continued.
- (ii) If the definition of an offense under this ordinance does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense will be punishable by a fine not to exceed five hundred dollars (\$500). Although not required, if a culpable mental state is in fact alleged in the charge of the offense, and the offense governs fire safety, zoning, or public health or sanitation, including the dumping of refuse, such offense will be punishable by a fine not to exceed two thousand dollars (\$2000).

(2) Civil remedies.

The City may seek to enjoin violations of these rules and any other civil remedies available under law.

(3) Non-exclusive remedies; other enforcement.

- (A) The City's decision to pursue civil or criminal remedies is not exclusive; the City may pursue criminal or civil remedies, or both, for any offense committed under this ordinance.
- (B) Enforcement under this ordinance does not preclude enforcement or prosecution by the State or any other authority under local, state, or federal law.

Part 3: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 4: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the ordinances of the City of Temple not in conflict with the provisions of this ordinance will remain in full force and effect.

Part 5: Nothing in this ordinance may be construed to affect any suit or proceeding in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or

existing under any act or prior ordinance; nor may any right or remedy of any character be lost, impaired, or affected by this ordinance.


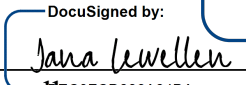
Part 6: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

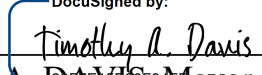
Part 7: It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 5th day of **May, 2022.**

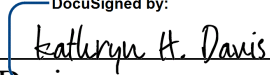
PASSED AND APPROVED on Second and Final Reading on the 19th day of **May, 2022.**

THE CITY OF TEMPLE, TEXAS

ATTEST:
DocuSigned by:

DocuSigned by:

Jana Lewellen
City Secretary

DocuSigned by:

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

DocuSigned by:

Kathryn H. Davis
City Attorney