

AN ORDINANCE TO AMEND THE CODE OF THE ATHENS-CLARE COUNTY, GEORGIA  
WITH REPSECT TO THE **PARKLET PROGRAM**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-22-3 entitled “*Eligibility*” of the Code of Athens-Clarke County, is hereby amended by deleting the word “and” at the end of subsection (b) thereof, and is further amended by adding the word “and” at the end of subsection (c), and is further amended by adding a new subsection (d) so that Section 6-22-3 now reads as follows:

**“Section 6-22-3 – Eligibility.**

Restaurants and specialty shops in the Downtown Athens District may apply to utilize public parking spaces located in front of their place of business as parklets, as further described in this chapter. Within the Downtown Athens District, parking adjacent to or within the following locations are not available for parklets:

- (a) Roads owned and/or maintained by the Georgia Department of Transportation;
- (b) Roads with a speed limit in excess of 25 miles per hour;
- (c) Roads that are temporarily or permanently closed to support outdoor dining, recreation, outdoor retail, or other similar public uses; and
- (d) Roads that include buffered bike lanes between the curb and on street parking.”

SECTION 2. Section 6-22-4 entitled “*Permit*” of the Code of Athens-Clarke County, is hereby amended by deleting subsection (h) in its entirety so that said section now reads as follows:

**“Section 6-22-4 – Permit.**

The issuance of a parklet permit shall not be construed or interpreted to convey any vested property rights or any leasehold rights or interests to any person or business. The holder of a permit shall have the right to enforce trespass laws within their licensed parklet. Permittee's use of the parklet area is subject to the rights of utility companies pursuant to franchise or easement. Prior to acceptance of a permit, a permittee shall acknowledge that permittee has inspected the parklet area and determined that the area is suitable for its purposes and that it assumes all risks associated with its use of such area. The provisions of this chapter are subject to change and amendment by the Mayor and Commission from time to time. Permits are subject to the following requirements:

- (a) Permits for parklets that are issued on an annual basis will expire on December 31 of each year, regardless of initial application issuance.
- (b) Any parklet that requires the substantial modification of public property as permitted by Section 6-22-6(b) of this chapter shall operate on an annual basis.
- (c) Except as provided in subsection (b), all applicants, at the time of application, shall indicate their intent to use parklets on an annual or quarterly basis. Quarters shall be as follows:
  - 1. The first quarter is January 1<sup>st</sup> through March 31<sup>st</sup>;
  - 2. The second quarter is April 1<sup>st</sup> through June 30<sup>th</sup>.

3. The third quarter is July 1<sup>st</sup> through September 30<sup>th</sup>; and,
4. The fourth quarter is October 1<sup>st</sup> through December 31<sup>st</sup>.

(d) Applications for permits shall be submitted no later than 30 days prior to the applicable date of issuance for an annual or quarterly permit.

(e) Application fees, as designated in Section 2-6-2 of this Code shall be paid in full at the time of application.

(f) Additional fees as designated in Section 2-6-2 of this Code shall be due at the time of the issuance of the permit.

(g) Parklet permits are non-transferable and shall expire upon the transfer of ownership, change in use of the establishment, or December 31<sup>st</sup> of each year, whichever is earliest.”

SECTION 3. Section 6-22-5 entitled “*Application*” of the Code of Athens-Clarke County, is hereby amended by inserting a new subsection (i) so that said section now reads as follows:

**“Section 6-22-5 – Application.**

Any person desiring to operate a parklet shall submit an application, on a form prescribed by the Manager, to the Central Services Department. The application shall include, but not be limited to, the following:

- (a) Name of applicant;
- (b) Name, address, phone number, and email for the establishment;
- (c) A copy of a valid Athens-Clarke County occupational tax certificate for the establishment desiring to operate a parklet;
- (d) A copy of a current certificate of insurance in the amounts and categories required by Section 6-22-11 of this chapter;
- (e) A map identifying the on-street parking spaces desired for the operation of a parklet, as well as letters of support from neighboring businesses or property owners if the applicant desires to use three or four total parking spaces;
- (f) Evidence of a valid alcohol license if the applicant wishes for patrons to be able to consume beer and wine in the parklet;
- (g) A map identifying the direct route between the establishment licensed to serve beer and wine and the proposed parklet if the applicant wishes for patrons to be able to consume beer and wine in the parklet; and,
- (h) A scaled sketch of how the parklet will be designed so as to meet the requirements of this chapter.
- (i) A design approved by an engineer licensed to operate in the State of Georgia, if the applicant intends to utilize methods other than “Jersey barriers” as their perimeter barrier, as required by section 6-22-8.

SECTION 4. Section 6-22-6 entitled “*Issuance of permit*” of the Code of Athens-Clarke County, subsection (a) thereof is hereby amended by deleting the word “shall” in the first sentence thereof and inserting the word “should” in lieu thereof, so that subsection (a) now reads as follows:

**“Section 6-22-6 – Issuance of permit.**

(a) Applicant should be notified within two weeks of application submission of approval or denial of the requested permit. If the permit is denied, applicant shall be provided an explanation of the denial.”

SECTION 5. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (c) thereof entitled “*Location*” is hereby amended by inserting a new subsection (5) so that subsection (c) now reads as follows:

**“(c) Location.**

1. Parklets shall be located within the boundaries of existing parking spaces.
2. All parklet materials, including barriers, planters and/or foliage shall be located at least 12” from the parking space edge and at least 18” from the street travel lanes.
3. Parklets shall not be located within spaces and gore areas designated for use by persons with disabilities
4. Unless otherwise exempted pursuant to Section 6-22-8(d)(2) of this chapter, parklets shall not extend onto the sidewalk, street travel lanes, fire lanes, bike lanes, or loading zones.
5. Unless otherwise noted in this ordinance, barriers, equipment, and furnishing for parklets shall not be anchored to the street.”

SECTION 6. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (d) thereof entitled “*Americans with Disabilities Act access*,” subsection (2)(b) thereof is hereby amended by deleting the word “shall” and inserting the word “may” in lieu thereof, so that subsection (2)(b) now reads as follows:

“b. Providing a temporary or mobile ADA-complaint curb ramp, which may be anchored into the street and/or curb; or”

SECTION 7. Section 6-22-8 entitled “*Parklet design*” of the Code of Athens-Clarke County, subsection (e) thereof is entitled “*Barriers and platforms*” is hereby deleted in its entirety and the following new subsection (e) is inserted in lieu thereof, so that subsection (e) now reads as follows:

**“(e) Barriers and platforms.**

1. Parklets shall be enclosed by barriers on any side where an automobile or bicycle could be present. A barrier adjacent to the curb is permitted, but not required.
2. Barriers shall incorporate white reflective bands or other modifications approved by the Transportation and Public Works Department as needed to

enhance visibility at night. Where the parklet is directly adjacent to the left side of the travel lane, yellow reflective bands shall be used.

3. "Jersey barriers" are permitted by-right, so long as they are integrated into facades, planters, or other parklet features so as to enhance aesthetics.
4. Custom barriers other than "Jersey barriers" must meet the following design requirements:
  - a. The barrier shall have a minimum height of 36" and a maximum height of 42" as measured from the street and shall have no gap greater than 4" between barriers.
  - b. Barriers shall be weighted such that they are not easily moved, altered, or stolen.
  - c. Barriers shall be freestanding, stable, and sturdy so as not to fall over or be pushed over, but shall not be anchored into the right-of-way.
  - d. An engineer licensed in the State of Georgia must document that barriers are designed such that they are capable of withstanding 250 pounds of force in all directions.
5. To enhance ADA access, parklets may use an elevated platform or deck so long as its highest point does not exceed the elevation of the highest adjacent curb. From this point, the parklet's surface can be level to a maximum floor height of 16" above ground level, potentially resulting in an elevation that exceeds adjacent curb heights if the parklet's grade slopes downward from its peak. If as a result of elevation changes, the height of the parklet exceeds 6" above ground level, the perimeter of the parklet shall utilize 36" tall ADA-compliant railings adjacent to areas where vehicles are present."

SECTION 8. Section 6-22-9 entitled "*Parklet management*" of the Code of Athens-Clarke County, subsection (i) thereof entitled "*Suspension or modification of operation*," subsection (2)(i) thereof is hereby deleted in its entirety so that subsection (i) now reads as follows:

**"(i) Suspension or modification of operation.**

The Manager shall have the authority to require any parklet operating in an area created by this section to suspend operation and clear such areas, or to move or modify the location or operation of the parklet, for such reasons as, but not limited to:

1. Any street, sidewalk, or utility construction or maintenance;
2. Any emergency situation; or,
3. The protection of the health, safety, and welfare of the public."

SECTION 9. Section 6-22-13 entitled "*Revocation or suspension of permit*" of the Code of Athens-Clarke County, is hereby deleted in its entity and the new section inserted in lieu thereof, so that said section now reads as follows:

“The approval of a parklet permit is conditional at all times. A parklet permit may be revoked or suspended by the Central Services Department, subject to appeal to the Administrative Hearing Officer pursuant to the provisions of Section 1-5-1 of this Code if it is found that:

- (a) Any necessary business or health permit or license of the permittee has been suspended, revoked, or cancelled.
- (b) The permittee does not maintain the insurance as described in Section 6-22-11 of this chapter.
- (c) The permittee has failed to correct violations of this chapter or any other ordinance within 48 hours of receipt of the Manager's notice of same delivered in writing to the permittee.
- (d) The permittee has a history of violations of this chapter of three or more within a two-year period. -
- (e) Permits may be suspended for a period of up to 12 months depending upon history and severity of violations.”

SECTION 9. Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby issued shall remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10. This Ordinance shall become effective immediately upon its approval by the Mayor or its adoption into law without such approval.

SECTION 11. The Clerk of Commission, in consultation with the County Attorney, shall have the power to correct scrivener’s errors.