

OFFICE OF THE CITY CLERK
Sheboygan, Wisconsin
City Hall

I hereby certify that this is a true copy
of a document from the Common Council
proceedings of the City of Sheboygan.


City Clerk

Subs. of Gen. Ord. No. 6 - 21 - 22. By Alderpersons Felde and Ackley.
June 21, 2021.

AN ORDINANCE amending the Municipal Code so as to add provision for a parklet permit, to modify provisions related to drinking on public streets to account for the creation of parklets, to update the provisions related to street festival permits and sidewalk café permits so as to make them more congruent with each other and the parklet provisions, and to remove an ordinance no longer applicable related to drinking on the erstwhile Plaza 8.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Sec. 10-2 of the Municipal Code entitled "Drinking on public streets" is hereby repealed and recreated so as to read as follows:

"Sec. 10-2. - Drinking on public streets.

- (a) No person shall drink or carry for the purpose of immediate consumption any intoxicating liquor or fermented malt beverage upon the streets, sidewalks, alleys, public parking lots, and other public ways of the city. Any person carrying any open can, cup, glass, bottle or similar drinking vessel containing intoxicating liquor or fermented malt beverages upon the streets, sidewalks, alleys, public parking lots, and other public ways of the city shall be in violation of this section.
- (b) Such proscription, as it relates to fermented malt beverages, shall not be applicable to persons who have attained the legal drinking age and are:
 - (1) Attending a block party for which a permit has been issued in accordance with section 110-313; or
 - (2) Attending a street festival for which a permit has been issued in accordance with section 110-403.
- (c) Such proscription shall not be applicable in areas holding a sidewalk café permit pursuant to section 110-502 if:
 - (1) The sidewalk café is part of a premises licensed for the serving of alcoholic beverages; and
 - (2) The person is a patron of the establishment holding said sidewalk café permit; and
 - (3) Neither the patron nor the establishment is in violation of the regulations for such sidewalk cafés set forth in section 110-503.
- (d) Such proscription shall not be applicable in parklets, as that term is defined in section 110-601 if:

- (1) The parklet is part of a premises licensed for the serving of alcoholic beverages; and
 - (2) The person is a patron of the establishment holding said parklet permit; and
 - (3) Neither the patron nor the establishment is in violation of the regulations for such parklets set forth in section 110-604.
- (e) Such proscription shall not be applicable in city-designated temporary public gathering spaces as described in section 110-604(i). Such temporary public gathering spaces shall be designated by the council via resolution.
- (f) Any person violating the provisions of subsection (a) of this section shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, plus costs, and in default of payment thereof to imprisonment in the county jail until such forfeiture is paid, but not to exceed 30 days.
- (g) Any person under 18 years of age who violates this section shall be subject to a forfeiture of not more than \$25.00, except that disposition in proceedings against a person under 18 years of age on the date of disposition shall be as provided in Wis. Stats., § 48.344."

Section 2. Sec. 10-8 of the Municipal Code entitled "Plaza 8; consumption of alcohol beverages" is hereby repealed.

Section 3. Articles VIII and IX of Chapter 110 of the Municipal Code are hereby repealed and new Articles VIII, IX, and X are hereby created so as to read as follows:

"ARTICLE VIII. - STREET FESTIVALS

Sec. 110-401. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street festival means a public event sponsored by one or more individuals, businesses, or organizations held within a city street right-of-way or other public thoroughfare that has been temporarily closed for the occasion. Block parties, as defined in section 110-311 of this code, are not street festivals.

Temporarily means for a period of less than 72 hours. Individuals, businesses, or organizations who wish to close a city street right-of-way or other public thoroughfare for more than 72 hours may wish to consider obtaining a parklet permit pursuant to Article X of this chapter.

Sec. 110-402. - Penalty.

Any violation of or noncompliance with this article shall subject the violator to a forfeiture of not less than \$50.00 or more than \$500.00, together with the costs of prosecution, and, in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 15 days.

Sec. 110-403. - Application for permit.

- (a) An application for a street festival permit shall specify and include the following:
 - (1) The time and date during which the street will be closed.
 - (2) The exact portion of the street to be closed.
 - (3) The full name and address of the sponsor(s) of the street festival; if any such sponsor is a partnership, the full names and addresses of each partner; and if any such sponsor is a corporation or limited liability company, the full name and address of each director of said corporation or company.
 - (4) A list of all adults who reside or do business on that portion of the street.
 - (5) A statement that all such adults have been contacted concerning the proposed closing, together with a list of all those who objected to the closing.
 - (6) A statement as to whether alcohol will be served, sold, or given away during the street festival.
 - (7) A statement as to whether alcohol will be permitted in the closed right-of-way.
 - (8) If any alcoholic beverages are to be served, sold, or given away during the festival, the following shall also be included:
 - a. The name and address of the licensed agent for the sale of alcohol beverages.
 - b. A specific plan indicating where alcohol will be served, where patrons will be permitted to carry the beverages, and how underage persons will be prevented from obtaining such beverages illegally.

- c. Evidence that the sponsor of the street festival has the proper licenses and permits to serve alcohol, and has obtained the proper documentation (such as a temporary change of premises) to allow them to serve, sell, or give away alcoholic beverages in the right-of-way.
 - (9) A description of the steps that will be taken to ensure the safety of all concerned.
 - (10) Evidence that the sponsor has obtained liability insurance in the amount of at least \$100,000.00 per individual and \$300,000.00 per incident or occurrence and has named the City of Sheboygan as an additional insured.
 - (11) Any other rules promulgated by the common council.
- (b) If any person who resides or does business in the blocked-off portion of the street objects to such closing, application for the permit shall be denied.

Sec. 110-404. - Street closing.

Upon application for a street festival permit, the chief of police may grant a permit to close a definite and limited portion of a city street. No such permit shall be granted when the chief of police or his or her designee determines, in his or her discretion, that closing a street or portion thereof:

- (a) Would be illegal or unsafe; or
- (b) Would cause, be likely to cause, or tend to cause unreasonable traffic congestion; or
- (c) Would result in a disturbance of the peace; or
- (d) Would endanger the public health, welfare and safety; or
- (e) Would unreasonably hamper access to a residence or business place.

Sec. 110-405. - Responsibilities of applicant.

- (a) Acceptance of a permit required by this article shall make the applicant primarily liable for damages to persons or property because of the closing. The city shall not be liable for any damage caused by the street closing.
- (b) An applicant issued a permit under this article shall notify the police and fire departments, bus companies and private ambulance

services no less than three business days prior to the street closing.

- (c) The applicant shall be responsible for procurement, placement and maintenance of barricades used to barricade streets under this article.
- (d) It shall be unlawful to hold a street festival under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of the permit.
- (e) If the street is barricaded during hours in which vehicles are required to use headlights, lights and reflectors must be clearly and visibly placed and maintained on the barricades by the applicant, and it shall be unlawful to fail to have such light or reflectors on the barricades.
- (f) Music or noise levels must be kept at a reasonable level as not to disturb others. Failure to keep music or noise to a reasonable level is a violation of section 66-71 of this code.
- (g) Upon denial of an application for a street festival permit, an appeal may be made to the common council.

Sec. 110-406. - Permit hours.

- (a) Street festivals and all activities connected therewith shall start no earlier than 10:00 a.m.
- (b) No alcoholic beverages may be served, sold, or given away outdoors at a street festival after 10:00 p.m.
- (c) All outdoor music at street festivals shall end no later than 10:30 p.m.
- (d) All streets and rights-of-way closed by a street festival shall be cleared and re-opened to public travel by 12:00 midnight. However, if the applicant applies for street closure on consecutive days, and if the chief of police has approved said application, the street may remain blocked overnight from the first until the last consecutive day of the street festival; however, no person, other than the applicant or a bona fide employee thereof while performing duties related to the street festival, shall be permitted within the street or its right of way between 12:00 midnight and 10:00 a.m.

ARTICLE IX. - SIDEWALK CAFÉS

DIVISION 1. - GENERALLY

Sec. 110-500. - Definition.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sidewalk café means any group of tables, chairs, benches, barriers or partitions, trash containers and suitable decorative devices maintained upon any part of the public sidewalk for use by an establishment in the sale to the public of food, refreshments, and beverages of all kinds.

Sec. 110-501. - Permit required.

- (a) Except as provided in articles VI, VIII, and X of this chapter, it shall be unlawful for any person to sell or serve, or offer to sell or serve any food, refreshment, or beverage upon any public sidewalk, except in areas holding a sidewalk café permit pursuant to section 110-502.
- (b) It shall be unlawful for any person to sell or serve, or offer to sell or serve any alcoholic beverage upon any public sidewalk within the City of Sheboygan unless said sidewalk is part of a licensed premises pursuant to chapter 10 of this Code.

Sec. 110-502. - Sidewalk café permit.

- (a) *Annual license.* The fee for an annual sidewalk café permit shall be the greater of \$50.00 or \$1.00 per square foot, but shall not exceed \$2,500. Notwithstanding this provision, due to the ongoing economic challenges presented by the 2020-2021 novel coronavirus pandemic, the fee for an annual sidewalk café permit issued for the license year beginning April 15, 2021 and ending April 14, 2022 shall be the greater of \$25.00 or \$0.50 per square foot.
- (b) *License fee.* The license fee shall be paid to the city treasurer. Annual licenses shall be issued on the 15th day of April each year or thereafter when applied for and shall expire on the 14th day of April of the year following its issuance.
- (c) *Application.* Each application for a sidewalk café permit shall be filed with the city clerk's office. The application for new and returning sidewalk cafés shall include the following:
 - (1) A layout, drawn to scale, which accurately depicts the dimensions and measurements of the existing area, including all adjacent streets, avenues, and adjacent private

property; the proposed location of the sidewalk café; the size and number of tables, chairs, steps, planters, and umbrellas; and the location of all furniture, equipment, doorways, trees, gratings, parking meters, benches, trash receptacles, light poles, and any other amenities or obstructions, either existing or proposed, within the sidewalk café. This layout shall be submitted on eight and one-half-inch by eleven-inch (8 1/2 x 11 inch) paper, suitable for reproduction.

- (2) Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the sidewalk café.
- (3) An indication of whether the applicant intends to sell or serve alcoholic beverages; those indicating such an intention shall submit proof that they have the required alcohol beverage license and that the site of the sidewalk café is part of the licensed premise;
- (4) Proof of insurance as required pursuant to section 110-503(e);
- (5) An agreement that the applicant and the applicant's heirs and assigns shall:
 - a. Become primarily responsible and liable for all and any damage to persons or property caused by and arising from the grant and exercise of the privilege to encroach upon city right-of-way;
 - b. Remove the encroachment allowed by the permit within ten days after notice to remove given by the State of Wisconsin or the City of Sheboygan;
 - c. In the event of the failure to remove the encroachment, the applicant and the applicant's heirs and assigns shall pay the cost of removal by the State of Wisconsin or the City of Sheboygan;
 - d. Waive all claims for damages resulting from removal of the encroachment whether the removal is done by the applicant, the applicant's heirs or assigns, the State of Wisconsin, or the City of Sheboygan;
 - e. Make such construction and/or alterations and maintain the same subject to the approval of the city building inspector and director of public works, and shall

waive the right to contest in any manner the validity of the encroachment agreement.

- f. The city clerk shall grant or deny all applications for sidewalk café permits. However, no such permit shall be granted until the City Attorney, the Chief of Police, the Director of Public Works, and the City Planner (or their designees) has reviewed the application and made a recommendation to the city clerk. If the city planner, in his or her sole discretion, determines that plan commission approval is required or appropriate, he may withhold recommendation until such time as the plan commission has considered and approved the activity, structures, or modifications related to the permit application.

Sec. 110-503. - Regulations.

- (a) Each sidewalk café shall remain within the approved boundaries of the sidewalk café site as set forth on the approved application.
- (b) No person shall consume, nor shall any holder of any sidewalk café permit consumption of alcohol beverages in a sidewalk café unless the person consuming the alcohol is seated at a table in the sidewalk café site. No container of alcohol beverages shall be present in a sidewalk café between 10:00 p.m. and 10:00 a.m.
- (c) Each holder of a sidewalk café permit shall have in force adequate liability insurance and shall agree to indemnify, defend, and hold the city, its employees and agents harmless against all claims, liability, lawsuits, loss, damage, causes of action, or expense incurred by the city as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the applicant shall annually prior to issuance of a permit furnish a certificate of insurance, on a form acceptable to the city, evidencing the existence of commercial general liability insurance (including contractual liability insurance) naming the City of Sheboygan and its employees and agents as additional insureds, with minimum limits of \$1,000,000.00 in the aggregate. The certificate of insurance shall provide 30 days written notice to the city upon cancellation, non-renewal, or material change in the policy.

- (d) Each sidewalk café serving alcoholic beverages shall be responsible for policing the area of the sidewalk café to be sure that customers are of the legal drinking age, that all laws related to the presence of underage persons on premises are being strictly followed, and that alcohol beverages are not removed from the premises.
- (e) All sidewalk cafés shall be closed and all tables, chairs, and all other materials and equipment removed immediately upon request of a police officer or a representative of the department of public works for such a length of time as said officer or representative shall designate. No sidewalk cafés that is part of a licensed premise shall remain open during closing hours as set forth in sections 10-64 and 10-112 of this Code. No patron shall remain or be permitted to remain within the sidewalk café area during closing hours, regardless of whether the sidewalk café has permanent facilities.
- (f) No sidewalk café or the barriers or furniture within the café shall be arranged in such a way as to interfere with the free use of the sidewalk by pedestrians, and in no case shall placement of café barriers and furniture reduce the travelable width of the sidewalk to less than five feet pursuant to the Americans with Disabilities Act.
- (g) In the event of failure to exercise the privilege granted by a sidewalk café permit within six months of granting, regardless of the date of issuance, the permit shall become null and void.
- (h) Sidewalk café permit holders may exclude persons who are not customers from using the tables, chairs, and other materials and equipment that are part of the sidewalk café. However, no person shall in any way impede, prevent, or exclude any person from any legal use of the public sidewalk, including by in any way permitting the reduction of the accessible width of the walkway to less than five feet.

Sec. 110-504. - Revocation; penalties.

- (a) The approval of a sidewalk café permit is conditional at all times. A sidewalk café permit may be suspended or revoked by the city clerk as a result of any violation of the provisions of this article or of violation of the provisions of any city ordinance or state or federal statute relating to activity occurring within the sidewalk café. Suspension or revocation shall be effective upon written notice to the holder of the

permit which shall either be personally served upon the permittee or the permittee's agent or mailed to the permittee's address as contained in the most recent parklet permit application. Such written notice shall inform the permittee of the opportunity to be heard on the matter. Any hearing shall be before the licensing, hearings, and public safety committee of the common council.

- (b) Any person, licensee, permit holder or applicant violating any provision of this article shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 for each separate violation, and in default of payment thereof to imprisonment in the county jail until such forfeiture is paid, but not to exceed 30 days.

ARTICLE X. - PARKLETS

Sec. 110-600. - Purpose.

To further encourage the revitalization of the downtown and adjacent areas of the city, including the development of social and economic activity, the city council finds and determines:

- (a) That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption;
- (b) That parklets will permit enhanced use of the available public rights-of-way, will complement restaurants operating from fixed premises, and will promote economic activity in the area;
- (c) That the existence of parklets encourages additional pedestrian traffic, but their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of parklets to ensure a safe environment.
- (d) That the establishment of permit conditions and safety standards for parklets is necessary to protect and promote public health, safety, and welfare.

Sec. 110-601. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parklet means an expansion of a business or businesses creating an outdoor public facility on part of the public street right-of-way that adjoins the premises.

Public street right-of-way or *public right-of-way* means any public street, sidewalk, parking lot, or public way within the City of Sheboygan

Restaurant means an establishment holding a State of Wisconsin restaurant license.

Sec. 110-602. - Parklet permit.

- (a) *Annual license.* The fee for an annual parklet permit shall be the greater of \$50.00 or \$1.00 per square foot, but shall not exceed \$2,500.
- (b) *License fee.* The license fee shall be paid to the city treasurer. Annual licenses shall be issued on the 15th day of April each year or thereafter when applied for and shall expire on the 14th day of April of the year following its issuance.
- (c) *Issuance.* The city clerk shall grant or deny all applications for parklet permits. However, no such permit shall be granted until the City Attorney, the Chief of Police, the Director of Public Works, and the City Planner (or their designees) has reviewed the application and made a recommendation to the city clerk. If the city planner, in his or her sole discretion, determines that plan commission approval is required or appropriate, he may withhold recommendation until such time as the plan commission has considered and approved the activity, structures, or modifications related to the permit application. No parklet permit shall be granted or issued unless all operations, including the potential sale or service of alcoholic beverages, can be done in compliance with all relevant ordinances and statutes.
- (d) *Application.* Each application for a parklet permit shall be filed with the city clerk's office. The application for new and returning parklets shall include the following:
 - (1) A valid copy of all necessary licenses, permits or certificates required by the County of Sheboygan, the State of Wisconsin, or any subsidiary enforcement agencies or departments thereof, including, but not limited to, restaurant and alcohol beverage licenses.

- (2) A layout, drawn to scale, which accurately depicts the dimensions and measurements of the existing area, including all adjacent streets, avenues, and adjacent private property; the proposed location of the parklet; the size and number of tables, chairs, steps, planters, and umbrellas; and the location of all furniture, equipment, doorways, trees, gratings, parking meters, benches, trash receptacles, light poles, and any other amenities or obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on eight and one-half-inch by eleven-inch (8 1/2 x 11 inch) paper, suitable for reproduction.
- (3) Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the parklet.
- (4) Proof of insurance as required pursuant to section 110-604(d);
- (5) An agreement that the applicant and the applicant's heirs and assigns shall:
 - a. Become primarily responsible and liable for all and any damage to persons or property caused by and arising from the grant and exercise of the privilege to encroach upon public right-of-way;
 - b. Remove the encroachment allowed by the permit within ten days after notice to remove given by the State of Wisconsin or the City of Sheboygan;
 - c. In the event of the failure to remove the encroachment, the applicant and the applicant's heirs and assigns shall pay the cost of removal by the State of Wisconsin or the City of Sheboygan;
 - d. Waive all claims for damages resulting from removal of the encroachment whether the removal is done by the applicant, the applicant's heirs or assigns, the State of Wisconsin, or the City of Sheboygan;
 - e. Make such construction and/or alterations and maintain the same subject to the approval of the city building inspector and director of public works, and shall waive the right to contest in any manner the validity of the encroachment agreement.

- (6) An agreement to be bound by the standards in Sec. 110-603 and the regulations in Sec. 110-604.
- (e) **Transfer.** A parklet permit may be transferred to a new owner or permittee only for the location and area listed in the permit and only if the new owner or permittee can show they are capable of meeting all relevant regulations. If the site plan will change, a new plan must be filed and approved prior to the use under the new site plan. A new certificate of insurance must be filed with the city before the permit transfer.

Sec. 110-603. - Standards.

The following standards, criteria, conditions, and restrictions shall apply to all parklets, provided, however, that the city clerk, in conjunction with the appropriate city staff, may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the City of Sheboygan Code of Ordinances, and all applicable state and federal laws.

- (a) Parklets shall be permitted only within the Central Commercial District of the City (Section 15.105(3)(f)1, Sheboygan Zoning Ordinance), and shall not be permitted adjacent to any state through highway.
- (b) Parklets shall be restricted to public rights-of-way immediately adjacent to the business to which the permit is issued.
- (c) Parklets will require a conditional use permit (CUP) if the parklet occupies more than two (2) street parking spaces.
- (d) All appurtenances upon parklet sites that occupy street parking spaces shall be located a minimum of two (2) feet from the nearest edge of any traveled way.
- (e) Tables, chairs, umbrellas or other fixtures in the parklet:
 - (1) shall not be placed within five (5) feet of fire hydrants, alleys, bike racks, trees, grates, or pedestrian crosswalks;
 - (2) shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures;
 - (3) shall not be physically attached, chained, or in any manner affixed to any structure, tree, signpost, or light pole;
 - (4) may be removed by the City at the owner's expense;
 - (5) shall be maintained in a clean, sanitary and safe manner;
 - (6) shall be commercial-grade furniture;

- (7) shall not be placed outside or hang over the designated parklet.
- (f) Parklets shall be operated and maintained April 1st through October 31st. Parklets and all materials and appurtenances therein that have not been removed after October 31st may be removed by the City at the owner's expense.
 - (g) Parklets, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day. Maintenance details shall include access panels and how drainage will be provided, including along the existing gutter, as appropriate.
 - (h) Parklet decking or platforms adjacent to curbs must be flush with the curb, may not have more than a 1/2" gap from the curb, shall allow for access underneath the decking or platform, and shall not impede curbside drainage.
 - (i) All rails around parklets in street parking spaces must be capable of withstanding a 200-pound horizontal force.
 - (j) Parklets in street parking areas shall be required to have reflective tape, soft hit posts, and wheel stops. If deemed appropriate, the parklets in street parking areas may be required to have edging such as planters, railing or cables as a condition of issuance of a permit. In any case, any edge in such a parklet shall be visually permeable, and if cables are used, vertical spacing between cables may not exceed six (6) inches.
 - (k) Umbrellas and other decorative material within a parklet shall be made of treated wood, canvas, cloth, or similar material that is manufactured to be fire resistant. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the sidewalk. Umbrellas must be secured.
 - (l) Signs used in a parklet shall be in accordance with Chapter 98 of this code and Subchapter 15-8 of the Sheboygan Zoning Ordinance. However, up to two temporary easel signs shall be permitted in parklets that include an entire closed street right-of-way. Such signs shall remain in the parklet only during hours of operation.
 - (m) No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in a parklet unless specifically authorized by the director of planning and development or his or her designee as part of a special event.

- (n) No amplified entertainment shall be allowed in a parklet unless specifically authorized by the director of planning and development or his or her designee as part of a special event.
- (o) A copy of the site plan, as approved in conjunction with the current parklet permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.
- (p) The city, its officers and employees shall not be responsible for parklet fixtures that are relocated or damaged.
- (q) Patio heaters shall not be permitted on the parklet café or parklet unless authorized by the Fire Chief.
- (r) No parklet shall be designed or maintained in such a way as to reduce visibility for drivers and pedestrians at crosswalks and intersections.
- (s) All elements of parklet shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of the City of Sheboygan Zoning Ordinance, this Code (including the Building Code contained in Chapter 26 hereof), the Americans with Disabilities Act (ADA), and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

Sec. 110-604. - Regulations.

- (a) Except as provided in articles VI, VIII, or IX of this chapter, it shall be unlawful for any person to sell or serve, or offer to sell or serve any food, refreshment, or beverage upon any public street right-of-way, except in areas holding a parklet permit pursuant to section 110-602.
- (b) Except as provided in articles VI, VIII, or IX of this chapter, it shall be unlawful for any person to sell or serve, to offer to sell or serve, or to consume any alcoholic beverage on a public street right-of-way; or for any parklet permittee to permit consumption of alcohol beverages in a parklet except in compliance with all of the following regulations:
 - (1) The parklet permittee shall have a valid and appropriate retail alcohol beverage license for the premises.
 - (2) The retail alcohol beverage license premises description shall include the parklet in the description of the licensed premises and said parklet shall be entirely contiguous with the remainder of the licensed premises, as required by state law.

- (3) The retail alcohol beverage license held by a parklet permittee must permit the sale of the type of alcohol beverages served in a parklet café.
- (4) Alcohol beverages within a parklet may be sold and served only by the licensee or licensee's duly licensed employees and sold or served only to patrons seated at tables in the parklet.
- (5) Alcohol beverages within a parklet may be served only by the licensee or the licensee's employees and in compliance with all relevant alcohol beverage laws, ordinances, and regulations.
- (6) Alcohol beverages may only be served in a parklet when food service is available through the licensed establishment.
- (7) A parklet permittee shall be responsible for policing the parklet to prevent underage persons from entering or remaining in the parklet, except when underage persons are allowed to be present on the licensed premises under the relevant alcohol beverage laws, ordinances, and regulations.
- (8) A parklet permittee shall not allow patrons of the parklet to bring alcohol beverages into the parklet from another location, nor to carry open containers of alcohol beverages about in the parklet, nor to carry open containers of alcohol beverages served in the parklet outside the parklet.
- (9) The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet area.
- (10) At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in a parklet between 10:00 p.m. and 10:00 a.m.
- (11) The carrying or consumption of any alcohol beverage by a person in violation of this subsection shall be a violation of 10-2 of this Code.
- (c) Each parklet shall remain within the approved boundaries of the parklet site as set forth on the approved application.
- (d) Each holder of a parklet permit shall have in force adequate liability insurance and shall agree to indemnify, defend, and hold the city, its employees and agents harmless against all

claims, liability, lawsuits, loss, damage, causes of action, or expense incurred by the city as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the applicant shall annually prior to issuance of a permit furnish a certificate of insurance, on a form acceptable to the city, evidencing the existence of commercial general liability insurance (including contractual liability insurance) naming the City of Sheboygan and its employees and agents as additional insureds, with minimum limits of \$1,000,000.00 in the aggregate. The certificate of insurance shall provide 30 days written notice to the city upon cancellation, non-renewal, or material change in the policy.

- (e) All parklets shall be closed and all tables, chairs, and all other materials and equipment removed immediately upon request of a police officer or a representative of the department of public works for such a length of time as said officer or representative shall designate. parklet that is part of a licensed premise shall remain open during closing hours as set forth in sections 10-64 and 10-112 of this Code. No patron shall remain or be permitted to remain within the parklet area during closing hours, regardless of whether the sidewalk café has permanent facilities.
- (f) No parklet or the barriers or furniture within the parklet shall be arranged in such a way as to interfere with the free use of the sidewalk by pedestrians, and in no case shall placement of parklet barriers and furniture reduce the travelable width of the sidewalk to less than five feet pursuant to the Americans with Disabilities Act.
- (g) In the event of failure to exercise the privilege granted by a parklet permit within nine months of granting, regardless of the date of issuance, the permit shall become null and void.
- (h) Parklet permit holders may not exclude persons who are not customers from using the tables, chairs, and other materials and equipment that are part of the sidewalk café so long as that use is consistent with the requirements of this article.
- (i) Nothing in this ordinance shall be deemed to restrict the City from closing portions of streets, sidewalks, alleys, public parking lots, and other public ways of the city for the purpose of creating temporary public gathering spaces and permitting the drinking or carrying for the purpose of immediate consumption of

intoxicating liquor or fermented malt beverages in such spaces. No permits shall be issued pursuant to this article or Articles VIII or IX of this chapter in such spaces. Except as provided in this subsection, the provisions of this article shall not apply to such temporary public gathering spaces.

Sec. 110-605. - Revocation; penalties.

- (a) The approval of a parklet permit is conditional at all times. A parklet permit may be suspended or revoked by the city clerk as a result of any violation of the provisions of this article or of violation of the provisions of any city ordinance or state or federal statute relating to activity occurring within the parklet. Suspension or revocation shall be effective upon written notice to the holder of the permit which shall either be personally served upon the permittee or the permittee's agent or mailed to the permittee's address as contained in the most recent parklet permit application. Such written notice shall inform the permittee of the opportunity to be heard on the matter. Any hearing shall be before the licensing, hearings, and public safety committee of the common council.
- (b) Any person, licensee, permit holder or applicant violating any provision of this article shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 for each separate violation, and in default of payment thereof to imprisonment in the county jail until such forfeiture is paid, but not to exceed 30 days."

Section 4. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

I HEREBY CERTIFY that the foregoing ^{Substitute} Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the 21st day of June, 2021.

Dated June 23, 2021. Melissa Cleverman, ^{Deputy} City Clerk

Approved June 23, 2021. [Signature], Mayor

Published June 26, 2021.
Certified June 23, 2021 to - Atty.; Police Dept.