

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 345-19

AN ORDINANCE

amending Chapters 4 and 24 of the City Code relating to the regulation of sidewalk cafes; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 4 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 4-48. Sidewalk cafes serving alcohol.

(a) It shall be unlawful for any person to serve an alcoholic beverage on a public sidewalk without a license under this section.

(b) In addition to a license under this section, a plan ~~permit~~ for a sidewalk cafe shall also be filed with ~~obtained from~~ the director of public works as required by section 24-2 of this code.

(c) A place of business licensed to sell intoxicating malt liquors with an alcoholic content of more than three and two-tenths (3.2) per cent by weight and not more than five (5) percent by weight and light wine for consumption on the premises may be licensed to sell such products on the public sidewalk adjacent to the place of business. A place of business licensed to sell all kinds of intoxicating liquor at retail or by the drink for consumption on the premises may be licensed to sell such products on the public sidewalk adjacent to the place of business. The following restrictions shall apply to serving and consuming alcoholic beverages on the adjacent sidewalk:

- (1) Alcoholic beverages can only be served between 11:00 a.m. and 12:00 a.m.
- (2) All alcoholic beverages served must be consumed by 1:00 a.m.
- (3) Only alcoholic beverages served by the licensee may be consumed on the sidewalk.

- (4) Alcoholic beverages may be served only to persons and consumed only by persons who are seated on a chair or bench provided by the licensee. This provision shall not apply to disabled persons in wheelchairs.
- (5) Alcoholic beverages may be served and consumed only in an area enclosed by a decorative barrier in compliance with the procedures and standards for sidewalk cafes in chapter 24 of this Code.
- (6) All alcoholic beverage sales must comply with the statutes and regulations of the state.
- (7) These areas shall be nonsmoking.

(d) An application for a license under this section shall be accompanied by a written plan demonstrating compliance with subsection (c)(5). The plan must show the location of the business, the adjacent sidewalk, any structure located on the sidewalk, the proposed barrier and the required straight, unobstructed pathway. The plan shall also contain a description of the barrier.

(e) There shall be no fee charged for a license issued under this section.

SECTION 2. Chapter 24 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 24-2. Obstructing streets and sidewalks; sidewalk cafes.

Any person who shall deposit, place, paint, write, erect or maintain any structure, material, article, substance, decoration or thing on, in or above any street, curb, gutter, park, parkway, sidewalk or public place of the city, except as specifically authorized by the city council by resolution, or as otherwise provided for by ordinance or this Code, shall be deemed guilty of a misdemeanor; provided, however:

(a) *Sidewalk cafe.* That a person owning or operating a restaurant, coffee shop or other business serving food and beverages may provide tables, chairs, plants or seating accommodations for its customers on the sidewalks adjacent to the business subject to the following conditions:

- (1) ~~Permit-Plan~~ required. It shall be unlawful for any person to operate a sidewalk cafe without first filing a plan with ~~obtaining a permit therefor from~~ the director of public works.
- (2) ~~Application-Plan contents.~~ Application-Plan contents. An applicant for a sidewalk cafe permit shall submit a plan ~~an application~~ therefor to the city and shall furnish such

information and make such affidavits as the director shall require. At a minimum, the application shall contain the following:

- a. Name of business;
 - b. Business address;
 - c. Name of all individuals with an ownership interest in the business;
 - d. Name of current business manager;
 - e. Name of the property owner upon whose property the business is located;
 - f. A diagram, drawn to scale, that delineates the space to be occupied by tables, chairs and barrier or delineator. Such diagram shall include any existing light poles, sidewalk grates, parking meters, or other facilities located in the right-of-way, including temporary signage intended to be utilized by the applicant, between the street curb and the building;
 - ~~g. The proposed hours of operation of the sidewalk cafe;~~
 - ~~h. The proposed days/months of operation during the year during which the sidewalk cafe will be in operation;~~
 - ~~i.g. The location where~~ A statement affirming that any tables, chairs and barriers or delineators will be stored when not in use;
 - ~~j.h.~~ A statement that the sidewalk cafe operator acknowledges and will comply with the duties of the operator as stated in this section applicant is in compliance with all health, fire and any other applicable codes and regulations and present certificates and written assurances of compliance with the initial permit application and when requested by the license administrator for permit renewals;
 - ~~k.i.~~ Signature of the authorized business owner; and
 - Contact information for the business owner and, if applicable, authorized agent of the business owner.
 - ~~l. Consent of property owner to file the application; and~~
 - ~~m. The application shall be accompanied by payment of an application fee in the amount of one hundred dollars (\$100.00). Such fee shall be prorated if the permit is issued for less than one (1) year.~~
- (3) Renewal/Plan revisions. The operator applicant for the renewal of a sidewalk cafe permit shall submit a revised plan an application for such renewal permit to the director of public works in the event any changes are made to the sidewalk cafe layout or location community development. The revised plan shall be a written statement upon forms provided by the director. ~~renewal application shall:~~

- a. ~~Be a written statement upon forms provided by the director; and~~
 - b. ~~Contain disclosure of such information concerning the applicant's compliance in the operation of the sidewalk cafe during the preceding permitting period as is reasonably necessary to the determination by the director of the applicant's eligibility for a renewal permit.~~
- (4) *Duties of operator-permittee*. Every sidewalk cafe operator-permittee under this section shall:
- a. *Permit inspection*. Permit all reasonable inspections of the business by the director of public works, or the director's designee;
 - b. *Accessibility*. Ensure an unobstructed pathway in compliance with the Americans with Disabilities Act at least sixty (60) inches wide be maintained on the sidewalk along the entire length of the sidewalk used by the business, which pathway shall be plainly visible from one end to the other and shall not require sharp turning movements to maneuver;
 - c. *Portable facilities*. That any tables, chairs, posts, cordons or other furniture be portable and not fastened or affixed to or over the public sidewalk unless the owner has obtained right-of-use approval from the city council;
 - d. *Advertising materials*. That no advertising material other than simple identification of the business establishment or "sandwich sign" otherwise permitted by this code shall be included within the public sidewalk including the sidewalk cafe;
 - e. *Alcoholic beverages*. That alcoholic beverages may be served and consumed only in an area enclosed by a decorative barrier and in compliance with all other city code requirements related to the licensing and sale of alcoholic beverages. In the event the business serves alcoholic beverages, a barrier shall be placed which consists of either bollards connected by chains or ornamental picket-style fencing. Bollards, including the base, must be made of black, powder coated steel or similar material and neutral color. The chains must be made of black metal or similar material and neutral color. Fencing, including the base, must be made of black, powder coated steel or similar material and neutral color. Spacing between pickets must be no wider than four (4) inches. Barriers must be no less than thirty-six (36) inches nor more than forty-three (43) inches high and shall not be anchored in the sidewalk. When barriers are placed for businesses not serving alcoholic beverages they must comply with these standards. A permittee shall not keep barriers on the sidewalk during any time of the year when the permittee does not serve food or alcoholic beverages outdoors;

- f. *Comply with governing law.* Ascertain and at all times comply with all laws and regulations applicable to such permitted business; and
 - g. *Operate properly.* Avoid fraud, misrepresentation and false statements made in the course of carrying on the business; avoid conducting the business in an unlawful manner; avoid conducting the business in such a manner as to constitute a nuisance or in such a manner as to constitute a breach of the peace, or to constitute a menace to the health, safety or general welfare of the public; and
 - h. ~~*Cease business.* Refrain from operating the permitted sidewalk cafe on premises after expiration of the permit and during the period in which the permit is revoked or suspended.~~
- (5) ~~*Term of permit.* The term of the permit shall be for one (1) year provided, however, the term of the initial permit may be less than one (1) year so that the permit expires on June 30th. Such permit shall be issued from the first day of July each year until the thirtieth day of June of the following year. A renewal notice shall be mailed to each permittee on or before June 1, informing the permittee that the permit shall expire on June 30 of that year, unless otherwise renewed.~~
- (6) ~~*Penalty for delinquent payment of permit fees.* Every person who shall fail to obtain a permit and pay the permit fee therefor as provided by this section before opening a sidewalk cafe or who shall fail to renew such permit for any such business and pay the permit fee therefor when such fee is due shall, in addition to being subject to any additional penalties for violation of the city code, pay for each month that such permit fee remains unpaid, an additional fee of twenty-five (25) percent of the sidewalk cafe permit fee provided in this section for such business.~~
- (7-5) ~~*Revocation-Enforcement.* In addition to any other penalty authorized by law, the operator of permit for a sidewalk cafe may be cited for code violations may be suspended or revoked by the director of public works if the sidewalk cafe operator permittee violates any law or ordinance affecting the conduct of a sidewalk cafe within the city.~~
- (8-6) ~~*Right of use permit required for attachment of any fixtures or structures.* A sidewalk cafe which seeks to utilize any barriers or equipment which is not portable or which is attached in any way to any portion of the sidewalk must obtain a right of use permit from the city council prior to the issuance of a sidewalk cafe permit by the director. In such event, the contents of any such right of use permit shall supersede the provisions of this section in the event of a conflict. A right of use permit for a sidewalk cafe installation shall require an accurate site plan, elevation, rendering, or such graphic representations as the city council may require to become exhibits to the permit. The director shall ensure the conditions set forth in the right of use permit issued by the city council are complied with by the applicant ~~prior to issuance of the annual~~~~

~~sidewalk cafe permit. Nothing contained herein shall prevent the city council from revoking any right of use permit issued for operation of a sidewalk cafe when the council determines in its sole discretion that the continued grant of the right of use permit is not in the best interest of the public. The revocation of a right of use permit shall result in an automatic revocation of the annual permit issued by the director.~~

(b) *Package delivery.* That nothing in this section shall be construed to prevent any merchant or tradesman from placing any packages of merchandise, which the merchant or tradesman may be receiving or sending away, upon any sidewalk if the packages do not occupy more than one-fourth (1/4) of the width of the sidewalk, or remain on the sidewalk for more than two (2) hours; and

(c) *Balconies.* That a building permit for the construction of a balcony extending over the public right-of-way in zoning district C-2 or M-DT shall be issued only if the city council has granted a right of use permit for the balcony and the proposed construction complies with section 29-4.2(d)(8) of this code and with the "encroachments into the public right-of-way" provisions of the Building Code of Columbia, Missouri, adopted in chapter 6 of this Code.

SECTION 3. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2019.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor