

Introduced by Treece

First Reading 10-3-16 Second Reading 10-17-16
 Third Reading 12-5-16
 Ordinance No. 023013 Council Bill No. B 262-16 A

AN ORDINANCE

amending Chapter 24 of the City Code to establish a public inconvenience fee for extended temporary occupancy of public spaces; 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 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.

DIVISION 2. RIGHT-OF-WAY CLOSURE PERMIT

Sec. 24-41. Required.

(a) No person shall construct, reconstruct, repair, alter or grade any sidewalk, curb, curb cut, driveway or street on the public streets or rights-of-way without first obtaining a permit from the director of public works.

(b) No person shall close a public street, sidewalk, parking lane, traffic lane or alley in connection with a construction project without first obtaining a permit under this division. If the closure is if the sidewalk is to be closed for thirty (30) days or less the permit may be issued by the director of public works as set forth in this division. If the closure is sidewalk is to be closed for more than thirty (30) days, the permit must be authorized by the city council as set forth in section 22-45 prior to issuance of the permit article IV should be followed.

Sec. 24-42. Application.

An applicant for a permit hereunder shall file with the director of public works an application showing:

- (1) The name, and address and phone number of the owner ~~or agent in charge~~ of the property abutting the proposed ~~work area~~ to be closed.

- (2) The name, and address and phone number of the party in charge of performing doing the work for which the closure is requested.
- (3) The location of the closure work area.
- (4) The type of closure requested (i.e., full street, partial street, sidewalk, etc.).
- (5) The exact purpose for the right-of-way closure.
- (4-6) The duration and dates of the closure or restriction (include days and hours per day) and designation of alternate streets or sidewalks for traffic flow.
- (5-7) Such other information as the director of public works or city council shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

Sec. 24-43. Fee.

(a) Application fee. An application for a permit hereunder shall be accompanied by an application a fee of fifty dollars (\$50.00).

(b) Public inconvenience fee. For public street, sidewalk or alley closures exceeding seven (7) calendar days, the following additional fees will be required:

<u>Sidewalk/curb or alley usage</u>	<u>\$0.20 per linear foot per day</u> <u>(unless the walkway is</u> <u>covered and remains</u> <u>open to public use)</u>
<u>Parking lane usage</u>	<u>\$0.30 per linear foot per day</u> <u>(in addition to lost</u> <u>revenue for daily parking</u> <u>fee due and owing to the</u> <u>parking utility)</u>
<u>Traffic lane usage</u>	<u>\$0.35 per linear foot per day</u> <u>per each lane of traffic</u>

An estimate of the public inconvenience fee due shall be paid prior to issuance of the permit and any additional amounts due and owing in excess of the estimate shall be paid before a certificate of occupancy is issued. The applicant shall be entitled to a refund of any excess fees paid if the closure is less than the estimate paid at the time of permit issuance.

Seven (7) day closures for the same, or substantially similar, project area are allowed only once every six (6) months to prevent multiple week-long closure requests without payment of a public inconvenience fee.

Public utilities and governmental entities are exempt from payment of the public inconvenience fee. Public utilities and governmental entities shall include, but not be limited to: any state or local government, school district, department, agency, special purpose district or other instrumentality of a federal, state or local government, any public utility regulated by the public service commission, or any cable television, broadband or telecommunications company with other authority to occupy and/or install facilities in the public right-of-way. Public infrastructure constructed, relocated or upgraded by a private contractor at the request of or on behalf of a governmental entity shall be exempt from the payment of the public infrastructure fee for any closure solely required for construction activities associated with the construction of such public infrastructure.

Sec. 24-44. Issuance of permit.

(a) The director of public works shall issue a permit hereunder when the director ~~he~~ has determined:

- (1) That a sufficient application has been made, accompanied by payment of the filing fee.
- (2) That the work will be done according to the standard plans and specifications on file in the office of the director of public works.
- (3) That the operation will not unreasonably interfere with the vehicular and pedestrian traffic, the demand and necessity for parking space, and the means of egress to and from the property involved and adjacent properties.
- (4) That the health, welfare and safety of the public will not be unreasonably impaired.
- (5) That evidence has been presented showing that all business owners along the sidewalk frontage of the impacted block have been given, in writing and by posting at the site of the closure, at least three (3) days notice of the use for any closure seven (7) days or less, or at least fourteen (14) days notice for any closure between eight (8) to thirty (30) days, containing the dates and times of such use, and their right to protest by written notice given to the director of public works; or in the event of a closure greater than thirty (30) days the city council has otherwise authorized issuance of the permit pursuant to the procedures set forth in section 24-45.
- (6) That the applicant agrees to follow all rules and regulations for sidewalk, street and alley closures issued by the director of public works and/or the city council.
- (7) That the public inconvenience fee, if any, has been estimated and paid prior to issuance of the permit.

(b) Permits issued for less than thirty (30) days may will be allowed to be renewed once by the director of public works; provided that the time granted in the original permit plus the time granted in the renewal permit shall not exceed thirty (30) days. Additional renewals will require the applicant to obtain city council authorization as follow the process set forth in section 24-45 article IV.

(c) Indemnity; hold harmless and insurance. It shall be a condition precedent to the issuance of any such permit that the applicant shall assume all civil liability for applicant's acts of omission or commission from all claims, suits or actions of any kind whatsoever arising out of or resulting from the closure, the issuance of the permit or the operations or activities of the permittee and shall further hold the city, its officials and employees harmless for any injuries or damages arising or resulting from the permitted work including any injuries or damages resulting from alleged negligent acts or omissions on the part of the city. The applicant shall insure adequate safety precautions are in effect at all times during the term of the permit.

(d) Insurance. Prior to the issuance of any such permit pursuant to section 24-41(b), the applicant(s) shall submit to the city a certificate binder or policy of liability insurance in an amount not less than \$2,000,000 per occurrence, \$3,000,000 aggregate and any endorsements thereto, which shall include the city as an additional insured, or equivalent in self-insurance guarantee or umbrella policy approved by the city's risk manager. The certificate must also include coverage for all owned, hired and non-owned vehicles with a combined single limit of \$2,000,000 (or equivalent in self-insurance guarantee or umbrella policy) also making the city as an additional insured and must also contain coverage for worker's compensation and employer's liability coverage as required by statute and which shall provide that said insurance shall remain in full force and effect during the entire term of the permit. All such permits shall be subject to annual review by the city's risk management division and the applicant shall be required to update as necessary to protect the city with any and all types and amounts of such insurance coverage deemed reasonable by the risk management division.

Sec. 24-45. Authorization for issuance of permit for greater than thirty (30) days.

(a) Whenever any person shall desire to temporarily close a public street, sidewalk, parking lane, traffic lane or alley for more than thirty (30) days, such person shall make application to the city council not less than twenty-one (21) days prior to the next city council meeting preceding the date the person desires to close such street or sidewalk. The city council may authorize the director of public works to issue a permit, with or without conditions, to such person to use a portion of such street or sidewalk to such extent and for such time as the city council shall find to be reasonably necessary, provided that the city council shall find that the following conditions exist:

- (1) No safety hazard will be created as determined by the director of public works or the director's designate, and

- (2) No obstruction will be created that would unreasonably interfere with police, fire or health protection of the city, and
- (3) No unreasonable interference with the normal uses of the abutting property will be created.

(b) The person making an application to the city council shall, as a part of the application, present evidence that all owners and occupants of property abutting the area to be used and also all owners and occupants abutting the sidewalk along both sides of the entire block where any closure will occur have been notified of the closure request, in writing and posted at the site of the closure, including the dates, time and scope of such intended closure, the council meeting date at which such request may be heard, and the right of any individual to appear before the city council or submit comments in writing to the city council on such closure prior to authorization of issuance of a permit.

Sec. 24-46. Fees deposited into special account.

Any fees collected pursuant to section 24-43 shall be deposited into a Public Inconvenience Fee Fund to be used for construction and maintenance of sidewalks, streets and parking areas on the basis for which the fee was collected (i.e., fees paid for sidewalk closures shall be used for sidewalk construction and maintenance, fees paid for street closures shall be used for street construction and maintenance, etc.). Such fees shall be in addition to existing budget allocations and shall not supplant existing funds currently allocated for such purposes.

Secs. 24-45 ~~24-47~~—24-55. Reserved.

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ARTICLE IV. ~~USE~~ SPECIAL EVENT PERMITS

Sec. 24-71. Required; application; conditions for issuance.

(a) Whenever any person shall desire to temporarily block a portion of any public street or sidewalk for a special temporary event that is not described in section 24-73, such person shall make application on a form to be supplied by the city to the city manager not less than twenty (20) days prior to the date the person shall desire to use such street or sidewalk. A twenty-five dollar (\$25.00) processing fee will be required with the application. The city manager may issue a permit with conditions to such person to use a portion of such street or sidewalk to such extent and for such time as the city manager shall find to be reasonably necessary, provided that the city manager shall find that the following conditions exist:

- (1) No safety hazard will be created as determined by the director of public works or his designate, and

(2) No obstruction will be created that would unreasonably interfere with police, fire or health protection of the city, and

(3) No unreasonable interference with the normal uses of the abutting property will be created.

(b) The person making an application to the city manager shall, as a part of the application, present evidence that all users or owners or occupants of property abutting the area to be closed have been notified of the use, the dates and time of such use and their right to submit a written objection to the city manager's office.

Sec. 24-72. Appeals; hearings before council.

(a) Any person aggrieved by a denial of a permit by the city manager may file an appeal within five (5) days following such denial with the city council to be acted upon at the next regular council meeting after said appeal is filed. The city council shall use the standards set out in section 24-71 in making its determination whether to uphold or reverse the city manager's denial of the permit.

(b) Any user, occupant or owner of property within the same general area of, or abutting the portion of the street or sidewalk to be used may either file a written protest or appeal before the city council to register such a protest, and the city council shall also consider such protest in making its determination whether to uphold or reverse the city manager.

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SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 5th day of December, 2016.

ATTEST:



City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor