

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 133-21

AN ORDINANCE

authorizing the City Manager to grant temporary right of use permits to restaurants to allow the use of parking stalls located in the right-of-way for additional seating; and fixing the time when this ordinance shall become effective.

WHEREAS, the City of Columbia desires a vibrant, safe and healthy business community and recognizes that restaurants and other businesses are key to maintaining a thriving community; and

WHEREAS, events in the community, such as graduation, football games, or other special events, may draw additional customers into restaurants that may need additional seating to accommodate these customers on a temporary basis; and

WHEREAS, the City of Columbia has determined that restaurants may make use of parking stalls located in the public right-of-way for additional seating on a temporary basis, subject to the issuance of a right of use permit and the terms set forth herein.

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

SECTION 1. City Manager authorized to issue restaurant right of use permit; time limitation. During calendar year 2021, the City Manager is hereby authorized to issue a right of use permit for a period not to exceed twenty (20) consecutive days to a restaurant to allow such restaurant to use one (1) or more parking stalls located in the right-of-way adjacent to such restaurant for outdoor seating. Such right of use permit shall meet the conditions set forth herein and any additional special conditions as the City Manager shall find to be reasonably necessary. Prior to the issuance of a restaurant right of use permit, the City Manager must 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 designee, 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 by such use. Under no circumstances shall the City Manager issue a right of use permit for additional seating when the speed limit on the street adjacent to the right-of-way is greater than twenty miles per hour (20 mph) or upon any right-of-way in which there is less than nineteen (19) feet from the face of the curb to any marked lane line or center line.

SECTION 2. Application and plans required; fee. Whenever any person or restaurant shall desire to temporarily block a portion of any public right-of-way for additional outdoor seating on a temporary basis, such person or restaurant shall make application to the Director of Public Works not less than twenty-one (21) days prior to the date the person shall desire to use such right-of-way. The application shall include a set of drawings to scale, showing the area to be utilized, the size and location of tables and chairs, the maximum occupancy of the space utilized, the barriers utilized to protect patrons from adjacent vehicular traffic, and any other items deemed necessary by the City. The City, in its discretion, may request engineered plans. The person making an application 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. A twenty-five dollar (\$25.00) processing fee will be required with the application to cover the cost of the processing of the application.

SECTION 3. Additional required conditions. Each restaurant right of use permit shall be subject to the following additional required conditions:

- (1) **Responsibility of restaurant.** Restaurant is responsible for the safety of its employees and patrons. Restaurant shall install and maintain for the duration of its temporary use all protective barriers, lights, signs, and reflective posts as needed to protect its employees and patrons. Said barriers, lights, signs, and reflective posts shall be installed and maintained as indicated on the approved plans and right of use permit. The use of other equipment such as chairs, tables, signs, etc., shall be contained to the area designated on the approved permit and the maximum occupancy shall not be exceeded.
- (2) **No interference with public use of sidewalk, street.** The restaurant's use of the location shall not otherwise interfere with the City's or the public's use of the sidewalk or non-permitted areas of the right-of-way. Food and beverage service shall only occur on the location designated in the approved right of use permit. No employees shall block the sidewalk or street when servicing the additional seating area. Times of operation shall be restricted to the regular restaurant hours.
- (3) **Americans with Disabilities Act.** The restaurant shall comply with the Americans with Disabilities Act and its implementing regulations. Restaurant shall make the outdoor seating location accessible to persons with disabilities.
- (4) **Size and location of seating area.** Additional seating areas shall not block or obstruct bus stops, ramps and parking spaces for persons with disabilities, public and private alleys, loading zones and driveways, fire lanes, hydrants and stand pipes. The use of the additional seating shall be located within the areas as indicated on the approved right of use permit. The size of the additional seating area shall be no larger than fourteen (14) feet from the face of the curb for angled

parking spaces. For parking spaces that are parallel to the curb, the size of the additional seating area shall be no larger than six (6) feet from the face of the curb. The City Manager may make an exception if the circumstances warrant.

- (5) **Lighting and sound.** The use of outdoor sound amplifying equipment, lights, or any other illuminated or noisemaking devices is prohibited unless designated on the approved permit.
- (6) **Cleaning and maintenance of area.** The restaurant shall contain all refuse generated from restaurant's operation within the restaurant and the restaurant shall properly dispose of grease and trash. The restaurant is responsible for cleaning the street and sidewalk within the permitted area and restoring the right-of-way to its original condition. Restaurant's use of the right-of-way shall not damage the right-of-way. Should restaurant damage the right-of-way, restaurant shall be responsible for all costs incurred by the City in its repair of the right-of-way.
- (7) **Electrical power.** Any power required for the additional seating area located in public right-of-way shall be self-contained and will not draw its power from the public right-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk. The City Manager may make an exception if the circumstances warrant.
- (8) **Insurance.** The restaurant must possess commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by Best of not less than "A," to protect the city against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the restaurant's use that impact or occurs on City property, including City facilities and City streets, sidewalks, and other right-of-way. The insurance shall name the City of Columbia, its officers, agents, and employees as an additional insured and must be maintained for the duration of the restaurant's use of City property. The amount of insurance for Single Limit Coverage applying to Bodily and Personal Injury and Property Damage shall be at least \$1,000,000.00; provided that nothing herein shall be deemed to waive the City's sovereign immunity. Failure to maintain insurance immediately preceding, during, and until the conclusion of the permit period is grounds to revoke the right of use permit.
- (9) **Indemnification agreement.** A person or restaurant who applies for a temporary right of use permit must execute a written agreement to indemnify the City and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of alleged willful or negligent acts or omissions of the person and restaurant, its officers, agents, or employees in connection with the use of City property.

- (10) **Special meter hood fees.** In addition to the processing fee, a person or restaurant shall pay the special meter hood per day fees set forth in Sec. 14-424 of the City Code for each metered parking space stall used by the person or restaurant.
- (11) **No right-of-way closure fee required.** Any portion of street or sidewalk subject to a right of use permit issued pursuant to this ordinance shall be excluded from the provisions of Sec. 16-185 of the City Code in connection with the closure of the right-of-way for the duration of the temporary right of use permit.

SECTION 4. This ordinance does not grant any restaurant any exclusive or perpetual right to any location upon the streets, alleys or public lands of the City. The issuance of a right of use permit is temporary in nature and subject to the rights of the public in the public right-of-way.

SECTION 5. This ordinance shall be in full force and effect from its passage through December 31, 2021.

PASSED this _____ day of _____, 2021.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor