Open Air ICT
Temporary Right-of-Way Use Permit

City Manager’s Office / Public Works & Utilities / Planning / MABCD / IT

August 11, 2020
Background

- Requirements for social distancing have created challenges for businesses resulting from insufficient space for accommodating patrons in a safe and comfortable environment.
Analysis

• In an effort to assist businesses during the need for social distancing, City staff have coordinated on providing a temporary use permit with a more streamlined process than the standard permitting process.
• Staff recommends no fees for the temporary permit.
• Anticipated permit applications would be for the use of the right-of-way (sidewalk, grass, street in front of business) or off-site parking. Any proposed uses of the street would require a more extensive permit review as well as traffic control installation for the safety of the users and motorists.
• Clear space must be maintained at all times for safe pedestrian movement through the area.
Analysis

- Uses of the space can be for a variety of business needs.
- Typical applications are anticipated for restaurants serving food and beverages to patrons at tables and chairs. Alcohol sales require proper licensure and fencing to delineate the space.
- Other applications could be for the display of merchandise.
- Cost for furniture, fencing, traffic control and any other necessary items are the responsibility of the business.
- Temporary permits are proposed to be valid until August 1, 2021.
Alcohol Requirements

- Valid license for intended area of use.
- Fence/diverter to delineate the area
- Area must be adjacent to the building

**SPECIAL REQUIREMENTS**

**Sale of Food/Beverages**

1. Food trays or carts, receptacles for dirty dishes, etc. shall not be placed or stored on any portion of the sidewalk or roadway area of a public street or right-of-way.
2. Permit Holder must provide at least one durable trash receptacle within the permit area at all times.
3. For the sale of alcohol:
   a. The Permit Holder must possess a valid license specific for the proposed area.
   b. All sales of alcohol will require fences/diverter to clearly delineate the proposed space, but do not need to be permanently affixed to the surface.
   c. Sales in the public right-of-way between the street and business (e.g. sidewalk and grass area) must be in areas adjacent to the building.
   d. No alcohol will be allowed to be sold in the street, including on-street parking, unless the entire street is fully closed to vehicular traffic. Serving of alcohol shall comply with all requirements of the State of Kansas' Alcoholic Beverage Control.

**Use of Street (e.g. on-street parking, part of the traveled street, or all of the street)**

1. Streets with speed limits of 35 mph or greater will not be permitted to utilize any portion of the street.
2. Applicant must obtain approval from the City’s Traffic Engineering during the permit process for any proposed use of the street, including any portion of on-street parking. All such uses will require submittal and approval of a traffic control plan. All traffic control must comply with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD). The cost of installation of all necessary traffic control is the responsibility of the Permit Holder. The City will not furnish any traffic control devices. A list of available traffic control providers is available at the website.
3. No alcohol will be allowed to be served in the street unless fully closed to vehicular traffic.
Examples of Existing Uses of the Right-of-Way for Sidewalk Cafés

Safe Passage
Space for Pedestrians

Fence would not be required for the Temporary ROW Use Permit if alcohol is not served.
Examples of Existing Uses of the Right-of-Way for Sidewalk Cafés

- Safe Passage Space for Pedestrians
- Temporary Fence Required if Alcohol is Served
Examples of Existing Uses of the Right-of-Way for Sidewalk Cafés

Site Plan Example
Example of Potential Space for Temporary Right-of-Way Use Permit for Merchandise
Example of Potential Space for Temporary Right-of-Way Use Permit

- Required Pedestrian Clearance
- Useable Right-of-Way
Examples from other Municipalities

- Use of Off-Site Private Parking
Examples from other Municipalities

Use of Off-Site Private Parking
Examples from other Municipalities.

Use of Public Right-of-Way
Examples from other Municipalities.

Use of Public Right-of-Way
Examples from other Municipalities.

Use of Public Right-of-Way
Examples from other Municipalities.

Use of Public Right-of-Way
Permit and Resources

- Permit and other resources can be found online at: www.Wichita.gov/OpenAirICT.
Permit and Instructions for Applying
Cost for the Permit

- No fees would be charged for the temporary permits.
- Costs for furniture, alcohol licenses, fencing/dividers, etc. are the responsibility of the applicant.
Badges for Approved Businesses to Display
Financial Considerations

- No fees would be charged for the temporary permits.
- Renewal fees for existing Sidewalk Café Permits would be waived between August 1, 2020 through August 1, 2021.
It is recommended that the City Council declare an Emergency and approve the ordinance on first reading.
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