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/diverters 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.

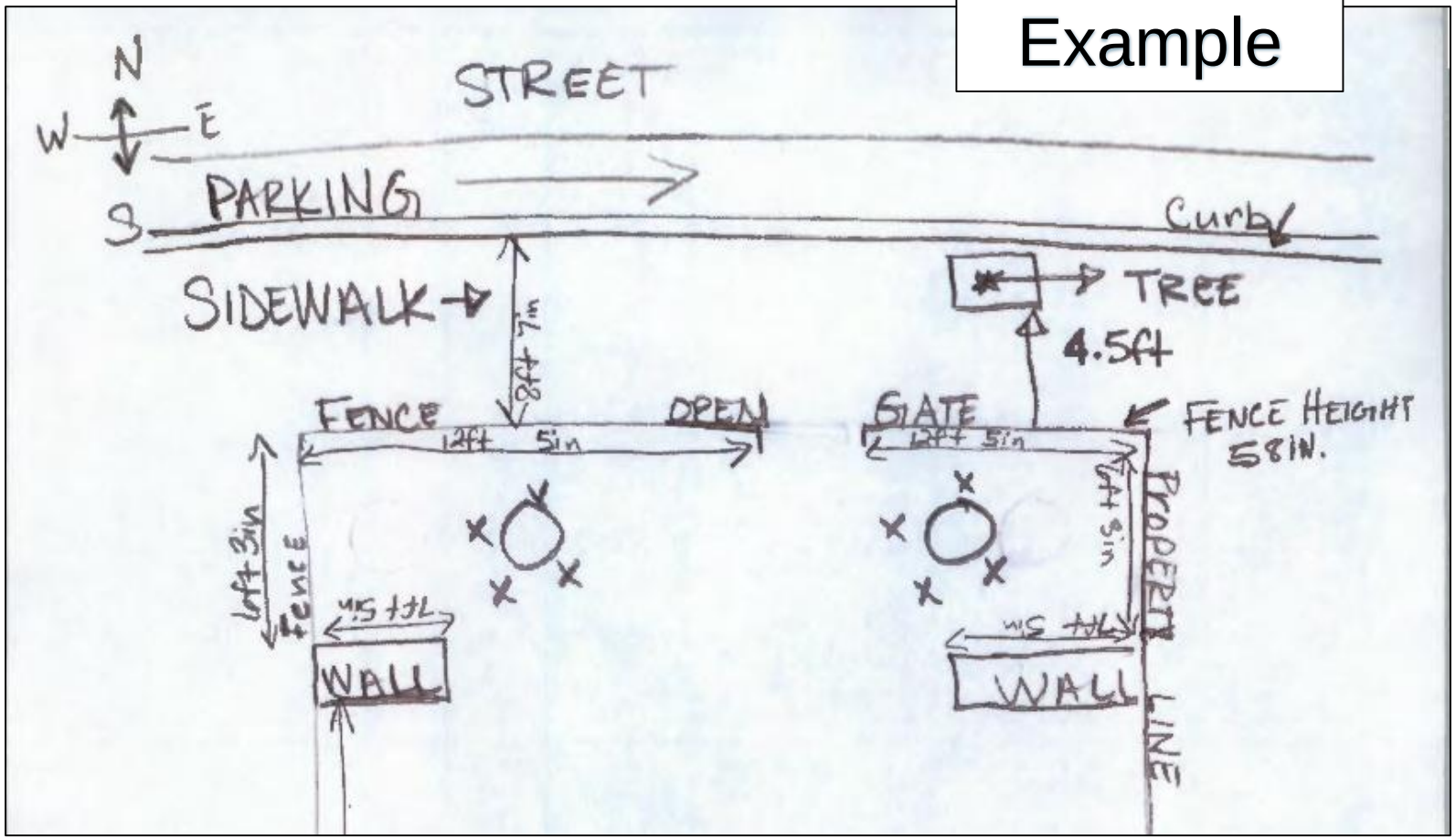
Examples of Existing Uses of the Right-of-Way for Sidewalk Cafés

Safe Passage Space for Pedestrians

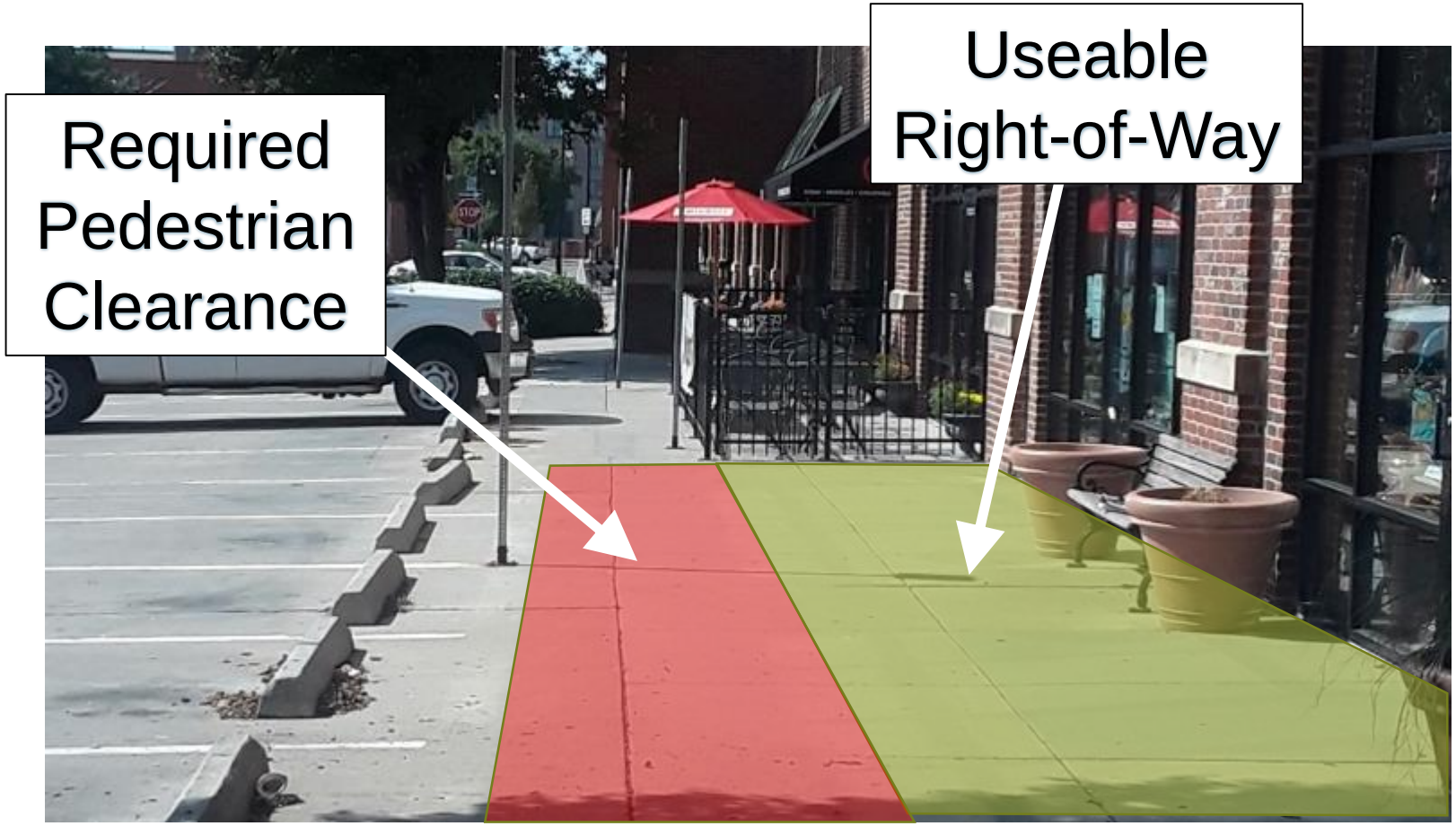
Temporary Fence Required if Alcohol is Served

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



Examples from other Municipalities

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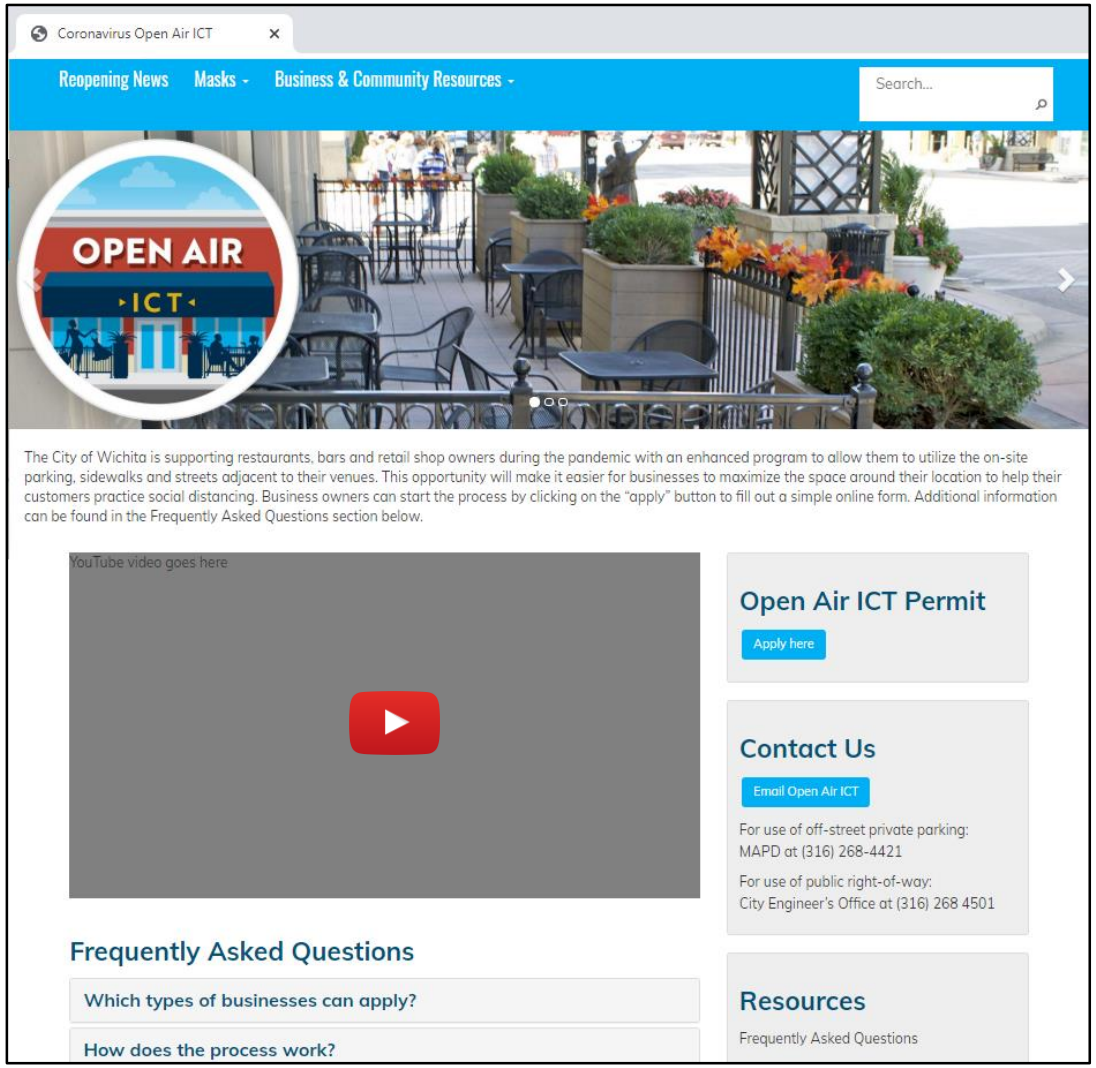
Permit and Resources

- Permit and other resources can be found online at: www.Wichita.gov/OpenAirICT.



Permit and Instructions for Applying

OPEN AIR ICT (Temporary Use Permit)

For Business Use of Off-Street Private Parking and Public Right-of-Way

CITY OF WICHITA

The purpose of the Open Air ICT Temporary Use Permit is to allow businesses (i.e. restaurants, bars, retail shops, etc.) to temporarily use off-street private parking (e.g. parking lots) and public right-of-way in front of their business (e.g. sidewalk, grass and on-street parking) for additional space to accommodate COVID-19 social distancing requirements.

If you have any questions please contact us by email at openairpermits@wichita.gov or by phone at the number below.

- For use of off-street private parking: MAPD at (316) 268-4421
- For use of public right-of-way: City Engineer's Office at (316) 268-4501

You will need to fill up and upload Exhibit A (mandatory) and Certificate of Liability Insurance (based on choice below in form) before submitting this Permit. You will also need to upload copy of your "Site Plan" as well.

All fees are waived for this permit. The permit will be in place until August 1, 2021.

PERMIT APPLICANT (Owner/Authorized Agent for the Property or Lessee)

	First*	Last*
Name		

Business Name*

Address for requested permit* Street Address

Requested Use (Select all that applies)

See Exhibit A for instructions and requirements

Requested Use*
- ☐ Sale and/or display of merchandise
- ☐ Provision of and/or advertisement of services
- ☐ Sale of food/beverages (including alcohol)
- ☐ Other

Is Alcohol going to be sold?* ○ Yes ○ No

Briefly describe the intended use and typical items proposed within the right-of-way:*

Area Requested For Use

See Exhibit A for instructions and requirements.If you desire to use both Off-Site Private Parking and Public Right-of-Way, separate applications will have to be submitted for each.

Area Requested for Use*
- ○ Off-Street Private Parking (e.g. parking lot)
- ○ Public Right-of-Way (e.g. sidewalk, grass or street in front of business)

Required Attachments

(Based on "area requested for use")

I. Upload Site Plan by clicking on "Upload below. Site Plan is required to submit this form.

Site Plan* Upload

File ext allowed pdf,doc,docx,jpg,tiff,png

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.

Recommendation/Actions

It is recommended that the City Council declare an Emergency and approve the ordinance on first reading.

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