

**ORDINANCE NO. 1062**

**AN ORDINANCE AMENDING CHAPTER 30 OF THE CITY OF CLEARWATER CODE OF ORDINANCES ENTITLED SECTION 30-1 – OBSTRUCTIONS BY ADDING TO CHAPTER 30 OF CITY OF CLEARWATER CODE OF ORDINANCES A NEW ARTICLE, ARTICLE V, TO AUTHORIZE THE ISSUANCE OF PERMITS TO OPERATE SIDEWALK CAFÉS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, KANSAS:

Section 30-1 of the Code of Ordinances, City of Clearwater, Kansas, is hereby amended to read as follows:

**Chapter 30 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

**ARTICLE I. - IN GENERAL**

**Sec. 30-1. - Obstructions.**

It is unlawful to obstruct any city sidewalk, alley, street, right-of-way or other public way. The following shall not be considered an obstruction of any city sidewalk, alley, street, right-of-way under the following conditions:

- (a) Permit granted for sidewalk cafés as provided in section 30-107.

(Code 1974, § 12.08.020; Ord. No. 3, § IX, 1885)

The Code of Ordinances, City of Clearwater, Kansas, is hereby amended by adding an article and sections which read as follows:

**ARTICLE V. – SIDEWALK CAFÉ PERMITS AND PROCEDURE**

**Sec. 30-106. – Definitions**

(a) Sidewalk café. The use of tables, chairs and other associated furnishings by a restaurant on the street between the curb line and the adjacent property line intended for the use of pedestrians, set aside for the purpose of on-site consumption of food and beverages, including but not limited to cereal malt beverages or alcoholic liquor by patrons.

- (b) City of Clearwater. The geographical area identified in Section 1-2. of the Code.

(c) Restaurant. An eating establishment open to the public for which the primary purpose is the preparation and serving of food to patrons on the premises.

**Sec. 30-107 - Sidewalk café and permit required.**

(a) No manager or owner of a restaurant shall permit sidewalk dining without first obtaining a sidewalk café permit from the City Clerk/Administrator. A sidewalk café permit will allow for the location of stands, dividers, partitions, seating, tables, lighting, and equipment used for the protection of patrons from the outdoor elements, as well as other devices used for the service and sale of food and

beverages. The service, sale and on-site consumption of food and beverages including alcohol shall be allowed on the public sidewalks within the area permitted as provided under K.S.A. § 41-719 (d). The application for a sidewalk café permit shall comply with the requirements established by the City Clerk/Administrator and shall be referred to the fire department for recommendations and determination that the sidewalk café as outlined in the application will not unduly burden or endanger the public. If a permit is denied, it may be appealed within thirty (30) days of the denial to the City Council, in writing and delivered to the City Clerk/Administrator.

**Sec. 30-108 – Issuance of Permit.**

The sidewalk café permit shall be issued by the City Clerk/Administrator upon approval of the application and payment of the required permit fee. The permit issued is in addition to all other permits or licenses required for the operation of the restaurant.

**Sec. 30-109 – Permit fee.**

An applicant seeking to obtain a sidewalk café permit shall pay a non-refundable annual fee of \$25.00 to the City Clerk/Administrator.

**Sec. 30-110 – Renewal of Permit.**

The City Clerk/Administrator may grant an annual renewal of a sidewalk café permit. A permit may be renewed upon proof of liability insurance and payment of the non-refundable renewal permit fee to the City Clerk/Administrator.

**Sec. 30-111 – General Requirements.**

Restaurants with a sidewalk café license shall adhere to the following requirements:

- (a) A sidewalk café and the public portion of the sidewalk shall be separated by a partition that in no way obstructs the entrance or exit of the restaurant by pedestrians, patrons or public safety personnel.
- (b) Restaurants shall be required to leave the sidewalk unobstructed a minimum of 48 inches from the curb line to the sidewalk café.
- (c) Restaurants shall be required to remove chairs, tables, furniture, partitions and other items used for a sidewalk café from the sidewalk during non-business hours.

**Sec. 30-112 – Liability of permittee; insure and hold City harmless.**

A permittee, meaning one who is currently granted with a valid permit, shall defend, and hold the City, its agents and employees harmless of any claim caused by the permittee, its agents or employees. A permittee, shall defend, and hold the City, its agents and employees harmless of any action of any type caused by the permittee or its agents or employees. A permit applicant shall carry liability insurance and provide proof of liability insurance in an amount not less than \$500,000 and shall name the City as an additional insured. A permittee's insurance coverage shall be in force at all times that a permit is issued and shall provide coverage for all potential losses that could be incurred under the defend and hold harmless obligations.

**Sec. 30-112 – Revocation of Permit.**

The issuing entity shall have the authority to revoke a permit granted under this chapter for any of the following reasons; for violations of any regulations for the administration of the permitting and renewal process, violation of any ordinance in this chapter, or for the health, safety or welfare of the public.

PASSED AND APPROVED this \_\_\_\_ day of October, 2020.

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Burt Ussery, Mayor

ATTEST:

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Courtney Zollinger, City Clerk