

(Summary Published in the Morning Sun on June 12th, 2020)

ORDINANCE NO. G-1312

AN ORDINANCE amending Sections 6-141, 74-1 and 74-2 of the Pittsburg City Code to permit restaurants to enter into a temporary license agreement authorizing the obstruction of a portion of the public sidewalks in order to permit the consumption of food and beverages thereon; and to create new Sections 74-12, 74-13, 74-14 and 74-15 regulating temporary license agreements issued to restaurants authorizing the use of a portion of public sidewalks for the consumption of food and beverages thereon.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PITTSBURG,
KANSAS:

Section 1. Section 6-141 of the Pittsburg City Code is hereby amended to read as follows:

Sec. 6-141. Consumption on public property.

No person shall drink or consume any alcoholic liquor on public property except pursuant to a temporary license agreement issued to a restaurant in accordance with Code Section 74-12, et seq. This section shall also not apply to the following structures: Lincoln Center, Memorial Auditorium and the Senior Center at 3003 North Joplin Street, and premises which are furnished to or occupied by any state officer or employee as a residence.

Section 2. Section 74-1 of the Pittsburg City Code is hereby amended to read as follows:

Sec. 74-1. Obstructions.

It shall be unlawful for any person to obstruct any street, alley, sidewalk, crossing, public ground or unoccupied ground in the City with any kind of vehicle, or with any box, lumber, or any other thing without first having entered into a temporary license agreement in accordance with Code Section 74-12, et seq.; or to place or cause to be placed in any street or alley, or upon any public or unoccupied ground, in this City, or in any mine, well, cistern tank, excavation or reservoir, or in any watercourse, ditch or gutter, any earth, dirt, carcass, filth, trash, rubbish, leaves, grass clippings, branches, limbs, refuse, or other unwholesome or injurious matter.

Section 3. Section 74-2 of the Pittsburg City Code is hereby amended to read as follows:

Sec. 74-2. Encroaching on public grounds.

It shall be unlawful for any person to encroach upon, into or over any sidewalk, street, alley, or public ground in the City with any house, building, structure, fixture or display of goods or other things, except awnings or signs, without first having entered into a temporary license agreement in accordance with Code Section 74-12, et seq.

Section 4. Section 74-12 of the Pittsburg City Code is hereby created to read as follows:

Sec. 74-12. Temporary license agreements for sidewalk seating and dining.

The Director of Public Works (Director), is authorized to enter into temporary license agreements with restaurants as defined in Code Section 6.2 (Licensee) for the limited purpose of permitting the placing of temporary barriers, tables, chairs, trash receptacles, umbrellas and portable planters (permitted obstructions) on a portion of the public sidewalk in connection with the sale and consumption of food and beverages thereon if the following conditions are met:

- (1) Access to the temporarily licensed area (Area) shall be accessible to all and shall comply with the Americans with Disabilities Act (ADA) requirements and Proposed Guidelines for Pedestrian Facilities in Public Right of Way (PROWAG) within the Area.
- (2) Permanent barriers shall not be installed, but temporary barriers shall be installed and comply with ADA requirements and PROWAG guidelines and provide for safety of citizens. Temporary barriers must be at least 36 inches in height and approved by the Director.
- (3) The use of the Area shall not prohibit the use of the sidewalk for its intended purpose by the general public. A minimum width of 36 inches (36") from the curb line or tree plantings to the outermost edge of the temporary barrier, whichever is closer, must be maintained for pedestrian traffic.
- (4) The serving of alcohol shall be permitted in the Area provided the Licensee has a drinking establishment license pursuant to Chapter 6 of the Pittsburgh City Code.
- (5) The Area shall be monitored by an employee of the Licensee at all times the Area is in use by Licensee's customers.
- (6) A map depicting the location, layout and dimensions of the Area shall be attached to the temporary license agreement.
- (7) No extension cords shall be used in the Area.
- (8) The Licensee shall be solely responsible for maintaining the Area in a clean and sanitary manner, and be responsible for any damage to the public sidewalk caused by Licensee's use of the Area.
- (9) The temporary license agreement shall expire on December 31, 2020.
- (10) A temporary license agreement fee in the sum of \$50.00 shall be paid by the Licensee in advance to the City Clerk.
- (11) A temporary license agreement is executed by the Licensee in a form approved by the Director and City Manager.
- (12) Licensee follows all design directives provided by the Director and the Fire Chief, or his or her designee.

- (13) All trash receptacles located in the Area must be emptied at the end of each day the Area is open to Licensee's customers.
- (14) Temporary license agreements shall not be assignable or transferable.
- (15) The Area shall be open to inspection by the Director at all times both before and after installation of the permitted obstructions.
- (16) The Area is in an area zoned for business.
- (17) The licensee shall indemnify, defend, and hold the City harmless in connection with licensee's operations and use of the Area.

Section 5. Section 74-13 of the Pittsburg City Code is hereby created to read as follows:

Sec. 74-13 Insurance required.

The Licensee shall keep insurance in force, issued by an insurance company licensed in the States of Kansas and meeting the following conditions:

- (1) Liability insurance in the sum of \$500,000.00 for the benefit of one or more persons on account of any one occurrence and \$100,000.00 for property damage.
- (2) The City shall be listed as an additional insured on such policy.
- (3) The policy shall provide for ten (10) days advance written notice to the City prior to any material change to the terms thereof or cancellation.
- (4) A certificate of insurance for such policy shall be on file with the City Clerk at the time the temporary license agreement is entered into.

Section 6. Section 74-14 of the Pittsburg City Code is hereby created to read as follows:

Sec. 74-14 Licensee conduct.

- (1) No sidewalk shall be reduced to less than 36 inches (36") in width from the curb line or tree plantings to the outermost edge of the temporary barrier, whichever is closer.
- (2) Licensee shall comply with all applicable City ordinances and state and federal laws, including the ADA.
- (3) All permitted obstructions shall be secured and placed in a manner that will not endanger the public or fall or protrude into any street or alley.
- (4) No street or alley shall be blocked by any permitted obstructions.
- (5) Permitted obstructions shall not be placed in a manner that creates or causes a nuisance, a

fire hazard, or interferes with ingress or egress to or from any building.

- (6) Only permitted obstructions may be placed or allowed in the Area. The Area shall not be used for storage of any other items.
- (7) Temporary license agreements may not extend onto sidewalks abutting or adjacent to adjacent properties unless the owners of the adjacent properties have consented thereto in writing. No property shall be deemed to be adjacent if separated by a street or alley.

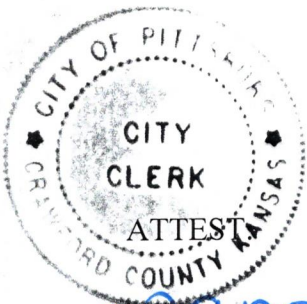
Section 7. Section 74-15 of the Pittsburg City Code is hereby created to read as follows:

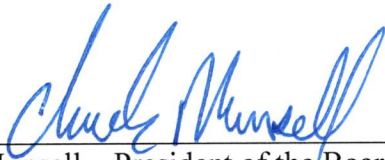
Sec. 74-15. Revocation; suspension.

Any temporary license agreement entered into by the City may be suspended or revoked by the Director for any reason that would justify a refusal to enter into the temporary license agreement originally, or by reason or failure by the Licensee to comply with the provisions of this Code, or any term or condition imposed by the temporary license agreement. The temporary license agreement may also be suspended if the Area, or a portion thereof, is necessary for City use, or for use by a utility with the right to access the City's right-of-way. Unless there is an emergency of need for access by the City or from a utility utilizing the City's right-of-way, the Licensee shall be entitled to seven (7) days advance notice of the City's intent to temporarily suspend a temporary license agreement. A Licensee aggrieved by the revocation of a temporary license agreement may appeal the revocation to the City Manager whose decision shall be final. The cost of removing Licensee's permitted obstructions shall be borne solely by the Licensee. Should a Licensee fail to remove permitted obstructions from the Area, the Director may remove permitted obstructions and assess the cost of removal to the licensee.


Section 8. This Ordinance shall take effect upon its passage and publication in the official city newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY ON THIS 9th DAY OF June, 2020.





Chuck Munsell – President of the Board



Tammy Nagel - City Clerk