



# City of Clayton

10 North Bemiston Avenue

Clayton, Missouri 63105

(314) 290-8453 FAX: (314) 863-0296

## APPLICATION TO RENEW OUTDOOR DINING PERMIT

*(please type or print)*

- ALL APPLICABLE SECTIONS OF APPLICATION MUST BE COMPLETE
- **APPLICANT AND PROPERTY OWNER/LANDLORD MUST SIGN THIS APPLICATION**
- PROOF OF LIABILITY INSURANCE MUST BE SUBMITTED IF OUTDOOR DINING IS LOCATED ON PUBLIC PROPERTY (MINIMUM PER OCCURRENCE COVERAGE OF \$2.7 MILLION REQUIRED)\*
- APPLICATION FEE OF \$135 (FOR A ONE YEAR PERMIT) OR \$235 (FOR A TWO-YEAR PERMIT) MUST ACCOMPANY THIS APPLICATION

License No. \_\_\_\_\_

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### PART A: CONTACT INFORMATION

Name & Address of Restaurant: \_\_\_\_\_

Restaurant Owner's Name & Contact Information (**include e-mail address**): \_\_\_\_\_

Applicant's Name & Contact Information (**include e-mail address**): \_\_\_\_\_

Full Corporate Name, Address & Phone Number: \_\_\_\_\_

### PART B: RENEWAL INFORMATION

The furniture and layout of the outdoor dining area remains the same as previously permitted.

\_\_\_\_\_ yes \_\_\_\_\_ initials

\_\_\_\_\_ 1 year \_\_\_\_\_ 2 years

I, \_\_\_\_\_ (applicant's printed name) have read and understand that the outdoor dining to which this application applies complies with the City's Outdoor Dining Regulations (Chapter 405, Article XXIX); copy of which was provided to me.

\_\_\_\_\_  
Applicant's Signature & Date

*Signature of Applicant (Required): \_\_\_\_\_ Date: \_\_\_\_\_*

*Signature of Property Owner (Required): \_\_\_\_\_ Date: \_\_\_\_\_*

*\*Copy of Certificate of Liability insurance may be faxed to: 314-863-0296 (Attention Kari Cranford) or emailed to: [kcranford@claytonmo.gov](mailto:kcranford@claytonmo.gov) (City of Clayton must be named as an additional insured)*

BILL NO. 6613

ORDINANCE NO. 6482

**AN ORDINANCE AMENDING ORDINANCE NO. 6352 TO ALLOW OUTDOOR HEATERS ON CITY RIGHT-OF-WAY UNDER CERTAIN CONDITIONS, AND OTHER ACTIONS RELATED THERETO**

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**WHEREAS**, on January 13, 2015, the City of Clayton adopted Ordinance No. 6352, which established Outdoor Dining Standards; and

**WHEREAS**, Clayton is a restaurant destination for residents, employees and visitors throughout the region, and is currently home to approximately 60 restaurants with outdoor dining; and

**WHEREAS**, on December 1, 2014, the Clayton Plan Commission held a public hearing after due notice and, by a vote of 5-0, voted to recommend approval of the proposed outdoor dining regulations to the Board of Aldermen; and

**WHEREAS**, the Board of Aldermen held a public hearing to consider the merits of this Ordinance, after satisfying all publication and notice requirements established by law, and all persons present at such hearings were given an opportunity to be heard and were heard.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:**

**Section 1.** Chapter 405, *Zoning Regulations*, of the Code of Ordinances of the City of Clayton, Missouri, is hereby amended by the adoption of one new Article, initially to be designated as Article XXIX, *Outdoor Dining*, to read as follows:

**Chapter 405. Zoning Regulations**

**Article XXIX: Outdoor Dining**

**Section 405.3960: Findings and Purpose**

- A. The City finds that outdoor dining encourages a pedestrian-oriented environment, helps to create a visually attractive streetscape, and promotes overall commerce. The purpose of this Article is to permit outdoor dining on public and private property in a manner that advances the City's aesthetic, economic and community goals and assures a safe and inviting pedestrian environment.

**Section 405.3970: General**

- A. Outdoor dining is permitted yearlong on public and/or private property as an accessory use to a restaurant that has indoor seating.
- B. The hours for outdoor dining shall not be earlier or later than the restaurant's hours of operation as specified in the governing Conditional Use Permit.

- C. The location of all furniture, fixtures and facilities associated with outdoor dining shall be such that a continuous pedestrian access route (PAR) meeting at least the minimum requirements of the Americans with Disabilities Act (ADA) and, when and if issued or revised from time to time by the United States Access Board, Public Rights-of-Way Accessibility Guidelines (PROWAG) shall be maintained at all times.
- D. The permittee, at its own expense and cost, shall keep the outdoor dining area in a neat and clean condition, free from nuisance and filth and provide for the prompt removal of snow, ice, trash and waste therefrom.

**Section 405.3980: Location**

- A. If located on a public sidewalk or a private walkway used by the public, an unobstructed pedestrian access route (PAR) must be maintained at all times, in accordance with the following standards.
  - 1. The PAR is recommended to be a minimum of 5 feet wide, and in any event, shall not be less than 3 feet wide and 7 feet tall. Tree grates and similar semi-open surfaces do not count towards the required PAR width.
  - 2. If/when more restrictive Public Rights-of-Way Accessibility Guidelines (PROWAG) are adopted or revised from time to time by the United States Access Board, the more restrictive PROWAG requirements for PAR shall be applicable.
  - 3. Outdoor dining permittees shall adapt and revise the arrangement of their facilities from time to time as necessary to accommodate the most recent PAR standards.
  - 4. There shall be no “grandfathering” or non-conforming right to continue previously permitted outdoor dining arrangements insofar as minimum PAR standards are concerned, it being understood that any permit is issued only on an annual basis as hereinafter provided and is subject to mandatory modification to assure compliance with required PAR standards as they evolve from time to time.
  - 5. Additional sidewalk clearance shall be required where pedestrian traffic or other circumstances warrant.
- B. If located on a public sidewalk, all outdoor dining furniture must maintain the following separations from and access to fixtures in the right-of-way.
  - 1. 3 feet minimum separation from the edge of curb, street trees, street lights, fire hydrants, Fire Department connections, mailboxes, benches, bicycle racks, and other similar fixtures at all times, and from parking meters when they are in effect.
  - 2. 5 feet minimum separation from the edge of driveways, alleys, and accessibility ramps.
  - 3. Outdoor dining shall not be located underneath a fire escape, stairwell, or balcony, and shall not block established public utility points of access (i.e. manholes, handholes, traffic signal cabinets, etc.).

- C. The outdoor dining area may be located in front of an adjacent property with the written permission of the owner of the adjacent property.

**Section 405.3990: Furniture**

- A. Only tables, chairs, umbrellas, approved heaters and pedestrian barriers shall be permitted in the public right-of-way.
- B. Permitted materials for outdoor dining furniture (tables, chairs, umbrellas, pedestrian barriers, trash receptacles, service stations, etc.) are limited to iron (cast or wrought), steel (expanded or wire), aluminum (cast or extruded), metal alloy, wood, or resin. White resin is prohibited. Outdoor dining furniture must be maintained in a good state of repair and cleanliness.
- C. Outdoor dining may be separated from the right-of-way by a minimum 30 inch tall pedestrian barrier (railing, fence or planters). Pedestrian barriers must be sturdy and stable, and must have sufficient weight so that they cannot tip or be blown over. Pedestrian barriers shall not be anchored to the public sidewalk and shall be maintained so as not to stain/discolor the sidewalk.
- D. Advertising on umbrellas is permitted provided the product being advertised is sold by the restaurant. Umbrellas shall not contain logos.
- E. Restaurants without outdoor table service must provide a sufficient number of refuse containers readily accessible to patrons. Refuse containers must be placed no more than 6 inches from the face of the building.
- F. Outdoor heaters must be reviewed and approved by the Fire Department.
- G. Outdoor service stations are prohibited on public property.
- H. Outdoor dining furniture must be stored inside the building when not in use.
- I. Advertising devices shall not be attached to fixtures in the public right-of-way including but not limited to street trees, streetlights, sign poles, traffic signals, and parking meters.

**Section 405.4000: Outdoor Dining Permit**

- A. All restaurants having outdoor dining on private and/or public property must apply for and receive an Outdoor Dining Permit prior to starting outdoor dining. The permit is subject to reapplication and renewal on an annual basis.
- B. Applications shall be filed along with the required fees with the Department of Planning. Upon review for compliance with the governing Conditional Use Permit and these standards by the Department of Planning, a permit shall be issued or denied by the Director of the Department of Planning. The Director may defer ruling and refer the application to the Architectural Review Board if the Director believes it would be appropriate to do so. The Director's final action to grant or deny an Outdoor Dining Permit may be appealed to the Architectural Review Board by an aggrieved party by filing a written notice of appeal to the Board with the Department of Planning within 15 days of the Director's decision. The Board shall review the application independently as if the application was originally filed with the Board.

- C. If any part of outdoor dining is located on public property, the permittee shall provide and maintain, at his/her sole cost, liability insurance satisfying the requirements set out in Section 510.090 of this Code of Ordinances covering any injury or damage said to be occasioned by or in any way arising from or associated with outdoor dining. The insurance shall name the City of Clayton as an additional insured and must be maintained in full force and effect so long as the permit is outstanding.
- D. Restaurants with Outdoor Dining Permits shall be subject to periodic inspections for compliance with the standards of this Article. Three or more violations of this Article may result in a revocation, suspension and/or non-renewal of an Outdoor Dining Permit.

**Section 2. Editorial Discretion.**

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

**Section 3. Severability.**

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

**Section 4. Effective Date.**

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

**Passed by the Board of Aldermen this 13<sup>th</sup> day of June, 2017**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk