



Legislation Text

File #: ORD. 2019-187, **Version:** 1

To authorize the owners of certain properties along North 17th Street between East Franklin Street and East Main Street to encroach upon the public right-of-way with outdoor dining areas on a temporary basis, upon certain terms and conditions.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the owner of each property set forth on the one-page document entitled “Temporary Outdoor Dining Encroachments,” dated June 19, 2019, and marked as “Exhibit A,” a copy of which is attached to, incorporated into, and made a part of this ordinance, each of which owners is referred to in this ordinance as a “Licensee,” is hereby authorized to encroach on the portion of the public right-of-way known as North 17th Street that abuts such right-of-way line with an outdoor dining area no part of which extends further than 15 feet from the abutting property line of the Licensee’s property, which outdoor dining area is referred to in this ordinance as the “Licensee’s Outdoor Dining Area.”

§ 2. That the grant of authorization for the above-described encroachment shall be subject to the applicable general provisions set forth in sections 24-59 through 24-65 of the Code of the City of Richmond (2015), as amended.

§ 3. That the grant of authorization for the above-described encroachment shall also be subject to the following specific conditions:

(a) The Licensee shall bear all costs incident to the encroachment, including, without limitation, realignment or replacement of street and sidewalk infrastructure, utilities, signs, right-of-way “monumentation,” and maintenance of the encroachment, as directed by City agencies.

(b) Subject to the general requirements of section 24-62(a)(5), the Licensee shall furnish the City evidence of an insurance contract providing either commercial general liability insurance coverage in an

amount not less than \$1,000,000 combined single limit or equivalent homeowner's or renter's insurance in an amount not less than \$300,000 combined single limit, naming the City as an additional insured, which shall be maintained for the life of the encroachment.

(c) Subject to the general requirements of section 24-62(a)(7) of the Code of the City of Richmond (2015), as amended, the Licensee shall furnish the City a removal bond with corporate surety, an irrevocable letter of credit or other type of financial guarantee, payable to the City and approved by the City Attorney, in the amount of \$5,000.

(d) If required by section 24-64 of the Code of the City of Richmond (2015), as amended, the Licensee shall be subject to an annual Assessor area tax for the Licensee's Outdoor Dining Area.

(e) The Licensee, or any successor or assignee thereof, shall bear all costs for repair, relocation or replacement of the encroachment in the event of damage or movement due to, but not limited to, vehicular travel; alterations "in" or "to" or failure of City utilities; or the City's and the public's use of the right-of-way.

(f) The Licensee shall secure all permits necessary for any work performed in connection with the Licensee's Outdoor Dining Area. The Licensee shall perform all work in connection with the Licensee's Outdoor Dining Area in accordance with the applicable policies and procedures of the Department of Public Works regarding encroachments and work in the public right-of-way.

(g) The Licensee shall ensure that the Licensee's property and the Licensee's Outdoor Dining Area comply with any requirements relating to the occupancy thereof found in Chapter 30 of the Code of the City of Richmond (2015), as amended, the Virginia Uniform Statewide Building Code, and the Virginia Statewide Fire Prevention Code.

(h) The Licensee shall ensure that the Licensee's Outdoor Dining Area complies with the rules and regulations established pursuant to section 2(b) of Ordinance No. 2018-208, adopted September 10, 2018, concerning temporary vehicular travel within the public right-of-way.

(i) The Licensee's Outdoor Dining Area shall conform to the requirements of sections 24-248

through 24-250 of the Code of the City of Richmond (2015), as amended, concerning sidewalk cafés, and the design guidelines adopted pursuant to section 24-246 of the Code of the City of Richmond (2015), as amended, except (i) that subsection (b) of section 24-250 of the Code of the City of Richmond (2015), as amended, shall not apply to the Licensee’s Outdoor Dining Area, (ii) that, notwithstanding subsection (c) of section 24-250 of the Code of the City of Richmond (2015), as amended, barriers need not be removed from the Licensee’s Outdoor Dining Area in case of a severe storm warning if such barriers are bolted or otherwise securely attached to the sidewalk, and (iii) as otherwise provided by this ordinance. The Director of Public Works may approve changes to the appearance of the enclosure in accordance with the applicable policies and procedures of the Department of Public Works regarding encroachments.

(j) The Licensee shall comply fully with all guidelines set forth in the eleven-page document entitled “17th Street Market, Sidewalk Cafe Design Guidelines,” dated March 2018, and marked as “Exhibit B,” a copy of which is attached to, incorporated into, and made a part of this ordinance.

(k) The Licensee shall be responsible for providing the Division of Permits and Inspections of the Department of Planning and Development Review, the Division of Right of Way Management of the Department of Public Works, and the Office of the City Clerk with written evidence that all conditions of the ordinance have been satisfied within the time period established by this ordinance.

(l) The Licensee shall provide written notification to the City Assessor, the Director of Finance and the Director of Public Works of the new owner’s name and mailing address immediately upon transferring any ownership or encroachment rights to another party.

(m) The Licensee’s rights under this ordinance shall terminate automatically upon the earlier to occur of (i) the date on which a later ordinance adopted by the City Council granting encroachment rights to that Licensee becomes effective or (ii) the date on which this ordinance expires pursuant to section 4 of this ordinance.

§ 4. This ordinance shall (a) be in force upon adoption, (b) shall become effective for each Licensee

only when (i) all terms and conditions of Ordinance No. 2018-208, adopted September 10, 2018, have been satisfied and (ii) that Licensee furnishes the required insurance and bond forms and files a written statement in a form satisfactory to the City Attorney to the effect that the Licensee agrees to be bound by and to comply with the terms and conditions upon which the encroachment authorization is granted, and (c) shall expire at the last moment of December 31, 2019.