

ORDINANCE NO.: 2010-118

Granting an encroachment to Cabo Fresh Taco for placement and maintenance of one (1) statute, five (5) tables, ten (10) chairs and four (4) planters within the sidewalk right of way adjacent to 1425 Sumter Street for use by its patrons for outdoor dining during normal business hours

WHEREAS, Cabo Fresh Taco, (hereinafter "Grantee") desires to utilize a portion of the sidewalk right of way area adjacent to 1425 Sumter Street for placement and maintenance of one (1) statute approximately thirty (30") inches in width and six (6') feet in height; four (4) planters approximately twenty-four (24") inches in length and eighteen (18") inches in width and eighteen (18") inches in height; five (5) tables approximately twenty-four inches in width and thirty (30") inches in length; and ten (10) chairs for use by its patrons for outdoor dining during its normal business hours of 10:00 a.m. to 3:00 p.m. and 4:00 p.m. to 9:00 p.m., as shown on the attached drawing; and,

WHEREAS, the statute, planters, tables and chairs shall be placed adjacent to the building to prohibit obstruction of pedestrian movement and vehicle parking and shall be removed and stored inside the building when not in use; the outdoor dining area and general exterior of the building shall be kept clean and orderly at all times; other improvements, interference with pedestrian movement or the parking lane and disturbance of existing trees and roots shall be prohibited; and,

WHEREAS, it appears that the encroachment will not interfere with the use of the sidewalk or street for traffic, utility locations or other uses within the foreseeable future; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council of the City of Columbia, South Carolina, this 6th day of October, 2010, that Grantee, its successors and assigns, is hereby granted the right to place and maintain one (1) statute approximately thirty (30") inches in width and six (6') feet in height; four (4) planters approximately twenty-four (24") inches in length and eighteen (18") inches in width and eighteen (18") inches in height; five (5) tables approximately twenty-four inches in width and thirty (30") inches in length; and ten (10) chairs for use by its patrons for outdoor dining during its normal business hours of 10:00 a.m. to 3:00 p.m. and 4:00 p.m. to 9:00 p.m., as shown on the attached drawing.

ALL WORK SHALL COMPLY with the requirements of The City of Columbia and South Carolina Department of Transportation now in existence or hereafter enacted. The materials and type of finish to be used are to be approved by the City Engineer prior to installation. Any damage to the street or sidewalk caused by construction or maintenance shall be repaired to the satisfaction of the City Manager. Improvements constructed within the encroachment by or on behalf of Grantee shall be maintained by the Grantee at no cost to the City in a manner approved by the City Manager.

PROVIDED, HOWEVER, that in exercising the privileges granted under this ordinance, Grantee, its successors and assigns, will indemnify and save harmless the City from any and all claims or causes of action which may arise by reason of the construction or maintenance of the aforesaid encroachment.

PROVIDED FURTHER that the privilege granted hereby is subject to the Grantee complying with the following conditions, restrictions or limitations:

1. No item shall be placed that creates a visual impediment to persons safely entering or exiting the building, adjoining driveway or walking along the sidewalk. The City reserves the right to remove any item located within the right of way which it deems to be a safety hazard; and,
2. The location of the statute, tables, chairs and planters shall not impede the path of travel for the

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assigned exit discharge of the adjoining building; and,

3. To prohibit the business from overcrowding, the posted capacity allowed within the business at the time of enactment of the encroachment ordinance shall include the total number of patron seating approved for the encroachment area, if not already included in the posted capacity allowable, so that patrons relocating from the inside of the business to the outside, or from the outside of the business to the inside shall not cause the posted capacity to be exceeded; and,

4. Use of the encroachment area is strictly limited to the serving of food and/or beverages to the patrons of the business during the normal business hours reflected in the encroachment ordinance at the time of enactment of the encroachment ordinance; and,

5. Any changes to the hours for use of the encroachment area, items allowed within the encroachment area or allowable patron capacity shall require an amendment to the encroachment ordinance; and,

6. The statute, tables, chairs and planters shall be placed adjacent to the building so as to allow five (5) feet of passageway along the sidewalk at all times and not obstruct pedestrian movement and vehicle movement and parking; and,

7. The statute, tables, chairs and planters shall be removed and stored inside the building when not in use; the outdoor dining area and general exterior of the building shall be kept clean and orderly at all times; other improvements, interference with pedestrian movement or the parking lane and disturbance of existing trees and roots shall be prohibited; and,

8. Tables and chairs are to be black or dark green as directed by by City Center Design Guidelines. Site furnishings shall be reviewed and approved by urban design staff per the City Center Design Guidelines.

PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantee, its successors and assigns.

PROVIDED FURTHER that a certificate of insurance be issued as evidence of general liability insurance with at least the minimum amount of \$600,000.00 for personal injury and property damage and naming the City as an insured, be provided to and filed annually with the City Clerk by Grantee, its successors and assigns, as required by Chapter 11, Licenses, Permits, Business Regulations, Article III, Contractors, Sec. 11-71, 1998 Code of Ordinances of the City of Columbia, South Carolina.

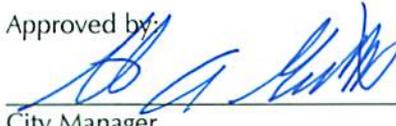
BE IT FURTHER ORDAINED that Grantee, in consideration of the above privilege, shall at its expense provide for protection and, if necessary, relocation of all utilities that might be within this area to the satisfaction of the City Manager.

Requested by:

Cabo Fresh Taco

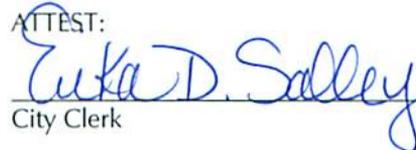

MAYOR

Approved by:


City Manager

Approved as to form:


City Attorney

ATTEST:

City Clerk

Introduced: 9/15/2010
Final Reading: 10/6/2010

REQUEST FOR AN ENCROACHMENT ORDINANCE

For a continuing encroachment on any type of property in which the City has an interest (i.e., rights of way, tree zone, sidewalk, streets), the person or entity is required to have an encroachment ordinance enacted by City Council permitting the encroachment. Encroachment ordinances are required for but not limited to: irrigation systems; landscaping; fencing; walls; pavers; walkways; outdoor dining items (chairs, tables, umbrellas, etc.); awnings; bollards and directional signs (i.e., churches) Business signs are NOT permitted via an encroachment. An encroachment must comply with all existing City codes, rules and regulations, the Americans with Disabilities Act, if applicable, and is subject to review and approval by City staff. Enactment of the encroachment ordinance by a majority vote of City Council, which is a discretionary legislative act, is also required. In order to obtain an encroachment ordinance from the City of Columbia, it will be necessary for the City of Columbia to be named as an additional insured on your homeowners' policy with limits being increased to \$600,000 as required by Sec. 11-71. It is recommended that you contact your insurance provider to determine if it will name the City of Columbia as an additional insured prior to submitting your request for an encroachment ordinance. If you have any questions concerning these requirements, please contact Chip Timmons with Risk Management.

Please complete and submit this form along with any attachment(s) to Shari Ardis by e-mail at slardis@columbiasc.net ; fax at 803-737-4250; or mail to Shari Ardis, Legal Department, POB 147 Columbia, SC 29217, for preparation of an encroachment ordinance. Copies to City departments should be directed to the contact person for that department as shown below and not through the Legal Department. Chip Timmons with Risk Management (733-8306 or catimmons@columbiasc.net) should be contacted regarding the insurance requirements.

Date: August 2 2010 Property Owner: PC Partnership/Jim Cantey

Applicant's Name if different from Property Owner: I. Barton Dumas

Contact Information: Telephone Number: 803-799-1712 Fax Number: 803-799-1713

Mailing address: 1425 Sumter Street, Columbia, SC, 29201 E-mail address: contact@cabofreshtaco.com

Encroachment Location (Address): 1425 Sumter Street, Columbia, SC, 29201

(If corner lot, include name and block number of side street, i.e., 1737 Main Street and 1100 block of Laurel Street)

Tax Map Number for Encroachment Location:

Encroachment type: Wall Fence Columns Steps Irrigation System Landscaping Driveway Pavers

X Walkway/Side walk Underground Utilities other

If Other - specify:

Dimensions (height/width/length):

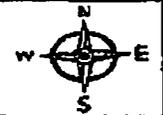
(i.e., 6x42' wooden privacy fence; two 12'x4' concrete step; two 12'x12' x24" brick columns; 4'x15' brick paver walkway)

Construction material:

Please provide photographs and drawing or site plan drawn to scale - no larger than 8-1/2 x 11.

Church Directional Signs (Must provide picture or drawing of proposed signs that reflect dimensions)

Location(s) signs are to be placed (i.e. Northeast corner of Main Street)



Businesses only: X Outdoor dining No. of chairs: 10 No. of Tables 5

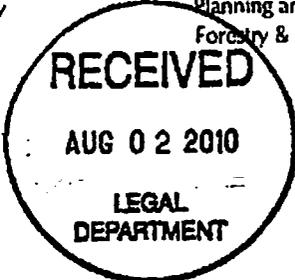
Hours of operation for outdoor dining: 11:00 AM / 3:00 PM

Number of planters: 4 Awning: (dimensions - size/material)

Other: (or complete applicable "Encroachment type" section above)

The proposed ordinance will be sent to the requesting party and City offices for review and approval. Krista Hampton will compile the recommendations and forward them to the City Clerk for scheduling before City Council. This process may take from 30-90 days.

Table with 4 columns: Contact, Department, Telephone Number, Fax Number. Lists various city departments and their contact information.



LR 6/9/2010

Matter No: 10071138
Account: 6/2/10
Date: 7-23-10 / 8-21-10
File No: 9010-118
Date: 8/11/10

