

**BOROUGH OF COLUMBIA  
LANCASTER COUNTY, PENNSYLVANIA  
RESOLUTION NO. 2020-14**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF COLUMBIA, LANCASTER, PENNSYLVANIA AUTHORIZING THE BOROUGH MANAGER TO ISSUE TEMPORARY SIDEWALK CAFÉ PERMITS, AND ESTABLISHING OTHER AREAS ON PUBLIC STREETS, RIGHTS-OF-WAY AND PUBLIC PLACES WITHIN THE BOROUGH FOR USE AS OUTDOOR FOOD AND BEVERAGE CONSUMPTION AREAS, SETTING FORTH DEFINITIONS UTILIZED IN THE RESOLUTION, ESTABLISHING SIDEWALK CAFÉ OPERATION REQUIREMENTS, AUTHORIZING THE MANAGER TO ESTABLISH PUBLIC DINING AREAS WITHIN THE BOROUGH, AUTHORIZING THE MANAGER AND/OR DESIGNEE TO PROMULGATE RULES AND REGULATIONS, ESTABLISHING VIOLATIONS AND PENALTIES, AUTHORIZING ENFORCEMENT OF THE RESOLUTION, COORDINATING THE ENFORCEMENT OF THIS RESOLUTION WITH THE BOROUGH'S OPEN CONTAINER LAWS SET FORTH IN CHAPTER 77 OF THE CODE OF COLUMBIA BOROUGH, COORDINATING THIS RESOLUTION WITH THE ENFORCEMENT OF THE BOROUGH'S DISORDERLY CONDUCT RESOLUTION SET FORTH IN CHAPTER 108 OF THE CODE OF COLUMBIA BOROUGH, PROVIDING FOR THE SEVERABILITY OF THE RESOLUTION, PROVIDING FOR THE REPEAL OF INCONSISTENT RESOLUTIONS, AND PROVIDING FOR THE EFFECTIVE DATE OF THE RESOLUTION.

**WHEREAS**, the 2019 Novel Coronavirus (COVID-19) is a contagious disease that is rapidly spreading from person to person in the Commonwealth of Pennsylvania and can be transmitted from people who are infected with the virus, even if they are a-symptomatic or their symptoms are mild, or through exposure through the touching of surfaces or objects that have the virus on it and then touching one's mouth, nose or eyes; and

**WHEREAS**, the Governor of the Commonwealth of Pennsylvania issued a Declaration of State of Emergency for the Commonwealth of Pennsylvania related to COVID-19 on March 6, 2020;and

**WHEREAS**, COVID-19 is a threat to the public's health, for which the Secretary of Health may order general measures, including, but not limited to, closure, isolation, and quarantine; and

**WHEREAS**, the Secretary has the authority to take any disease control measures appropriate to protect the public from the spread of infectious disease; and

**WHEREAS**, in accordance with such authority, Rachel Levine, M.D., Secretary of Health for the Commonwealth of Pennsylvania has issued orders establishing safety and precaution members to protect the public from the spread of COVID-19; and

**WHEREAS**, it is anticipated by Borough Council that various orders and restrictions will be placed upon restaurants by the Governor or the Secretary of Health from time-to-time which will stay in effect for a significant numbers of months following the date of enactment of

this Resolution and through the course of the COVID-19 pandemic; and

**WHEREAS**, Borough Council of Columbia Borough deems it to be in the best interest for the health, safety, and welfare of its residents and businesses to promote and encourage outdoor dining in accordance with guidelines issued by the Secretary of Health of Commonwealth of Pennsylvania.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED** and enacted by the Council of the Borough of Columbia, Lancaster, Pennsylvania, as follows:

SECTION 1.

**INTENT AND PURPOSE.**

The intent of this Resolution is to permit outdoor dining through the issuance of a temporary Sidewalk Café permit, to establish other areas on public streets, rights-of-way and public places within Columbia Borough for use as outdoor food and beverage consumption and to establish rules and regulations that assure that these Temporary Sidewalk Cafes are used and operated in manners consistent with the orders of the Governor of the Commonwealth of Pennsylvania, the Secretary of Health of the Commonwealth of Pennsylvania, and the laws and rules of Columbia Borough.

SECTION 2.

**DEFINITIONS.**

For the purposes of this Resolution, certain words and phrases shall have the meanings described to them by this Section, unless the context clearly indicates a different meaning.

Areas Reserved for Consumption of Food and Beverage (“Public Dining Places”). Areas so designated in accordance with Section 7 of this Resolution.

Beverage. Beverages for consumption, including those that contain alcohol and those that do not.

Health Officer. The Health Officer of the Bureau of Housing, Health and Sanitation or his/her authorized representative.

Permit. A permit issued by Columbia Borough for a Temporary Sidewalk Café.

Restaurant. Those food service establishments defined as a restaurant in Section 220-19, Definitions” of the Borough Code of Columbia Borough.

Sidewalk Area. That portion of the Borough street right-of-way reserved for sidewalks, which areas are defined on the Borough Plan.

Sidewalk Café. An outdoor dining area operated by a restaurant located on a sidewalk area or other designated public place and containing removable tables, chairs, plants, and related appurtenances, which is not located on or does not encroach upon the pedestrian walkway. It shall not be enclosed by fixed walls and shall be open to the air, except that it may have a canopy. It may but is not required to abut its sponsoring restaurant.

Street Right-of-Way. The entire right-of-way of a public highway, public alley, or public road, including the designated sidewalk areas.

Temporary Permit. A permit issued hereunder for the use of a sidewalk area and/or street right-of-way for a sidewalk café during the term of this Resolution.

Temporary Sidewalk Café. A Sidewalk Café operating during the term of this Resolution pursuant to a Temporary Permit.

### SECTION 3.

#### **ISSUANCE OF TEMPORARY PERMIT.**

- A. Any person who owns or operates a licensed restaurant or bar may submit an application to the Borough to establish the location of a temporary Sidewalk Café during the term of this Resolution. No application fee will be required for the submission of such application.
- B. The Borough Manager or Borough Engineer may authorize deviations from any provisions of the Temporary Sidewalk Café Resolution for all Temporary Permits issued hereunder.
- D. No zoning approval is required for any Temporary Permit and the grant of a Temporary Permit shall not constitute an expansion of the existing use for zoning purposes.
- E. With respect to any Temporary Permits issued pursuant to this Resolution, the Manager or designee may waive or modify any of the requirements set forth in Chapter 186 – “Streets and Sidewalks” of the Borough Code of Columbia Borough.
- F. Any requirements for Historic Architectural Review Board approval of any Temporary Permit pursuant to the Sidewalk Café Resolution are waived, provided any proposed improvements or alterations to the Sidewalk Area or right-of-way are temporary and non-invasive in nature.
- G. The Manager may designate areas of Borough rights-of-way for use as Sidewalk Cafés and in such case only those making application for and receiving

Temporary Permits may use those portions of the right-of-way for a Sidewalk Café.

- H. All provisions of this Resolution related to the operation and use of Sidewalk Cafes apply to all holders of Temporary Permits.

#### SECTION 4.

##### **SIDEWALK CAFÉ OPERATION REQUIREMENTS.**

- A. Table service of food or beverage of any kind shall only be provided in a Sidewalk Café in accordance with the Orders of the Governor of the Commonwealth of Pennsylvania, Orders of the Secretary of Health of the Commonwealth of Pennsylvania, applicable regulations of the Pennsylvania Liquor Control Board and laws of the Commonwealth of Pennsylvania and the Borough of Columbia.
- B. During the term of this Resolution, persons operating a Temporary Sidewalk Café must strictly adhere to the following requirements:
  - 1. Patrons may consume food and beverage purchased from a Temporary Permit Holder at designated tables in locations approved by the Borough Manager.
  - 2. The tables with the amount of seating so approved must be located in the locations approved by the Manager or Designee. No combining of tables or adding chairs to tables, whether they be from other tables located in the Sidewalk Café or elsewhere is allowed.
  - 3. Other than for purposes of ingress and egress to seating in the Temporary Sidewalk Café, no standing of any kind is allowed in the Sidewalk Café. The number of people in the Sidewalk Café is limited to the number of seats that are available and all people in the Sidewalk Café must be seated while consuming food or beverage.
  - 4. All Temporary Sidewalk Cafés shall be operated in a manner consistent with the Rules and Regulations. Any and all such Rules and Regulations can and will be changed from time-to-time based on changes in CDC Guidelines related to the COVID-19 pandemic, new orders issued by the Governor and/or the Secretary of Health of the Commonwealth of Pennsylvania and any other circumstances deemed appropriate by the Borough Manager or Designee related to the safety of patrons and employees.
  - 5. A clearly defined pathway must be established and maintained along the

public sidewalk that meet the requirement of the Federal Americans with Disabilities Act (ADA) at all times.

## SECTION 5.

### **PUBLIC AREAS DESIGNATED FOR CONSUMPTION OF FOOD AND BEVERAGE.**

- A. The Borough Manager may, from time-to-time during the term of this Resolution designate areas within the Borough as Areas Reserved for Consumption of Food and Beverage (“Public Dining Areas”). Those areas will be marked off and designated in manners readily visible to the public and posted on the Borough website.
- B. The Manger and/or Designee shall determine how many tables and chairs will be located in each Public Dining Area and will arrange for the installation of chairs and tables during hours designated by the Manger.
- C. No standing is permitted in any Public Dining Area. Only persons walking to or from a seat in such areas are authorized to stand in such area and all other persons shall be seated. No moving of tables or combining of tables is permitted nor may any person add chairs to any table in such areas.
- D. All people utilizing Public Dining Areas shall comply at all times with the Rules and Regulations.

## SECTION 6.

### **RULES AND REGULATIONS.**

- A. The Borough Manager is hereby authorized and directed to establish and promulgate Rules and Regulations for the issuance of Temporary Permits, for the establishment of Public Areas For the Consumption Of Food And Beverage and for the operation and utilization of Temporary Sidewalk Cafés and Public Dining Areas. Such Rules and Regulations will become effective when posted on the Borough website and/or Facebook page. As set forth in Section 4.B.4 above, the Borough Manger may amend such Rules and Regulations from time-to-time as the Manger deems appropriate. Any amendments will also become effective upon posting on the Borough’s website.
- B. The Rules and Regulations will address, at a minimum, the following:
  - 1. Procedures for the issuance of Temporary Permits;
  - 2. The size and number of tables and chairs allowed in Sidewalk Cafés;
  - 3. The specific areas within Sidewalk Cafés and Public Dining Areas where

tables and chairs may be located;

4. Hours of operation for Sidewalk Cafés and Public Dining Areas;
5. Requirements for posting of signage and licensure under this Resolution;
6. Requirements for cleaning, sanitation of tables and chairs and other surfaces, and trash and rubbish management; and
7. Such other matters as deemed necessary or appropriate for inclusion therein by the Director.

- C. Any violation of the Rules and Procedures shall be deemed a violation of this Resolution subject to penalties provided for herein.

#### SECTION 7.

##### **VIOLATIONS.**

- A. The holder of a Temporary Permit is subject to penalty as hereinafter provided should that holder violate any term of this Resolution or any provision of the Rules and Regulations.
- B. Any person utilizing a Sidewalk Café or Public Dining Areas contrary to or in violation of any term of this Resolution or the Rules and Regulations is guilty of a violation of this Resolution and subject to the penalties set forth herein.

#### SECTION 8.

##### **PENALTIES.**

- A. Whoever violates any provision of this Resolution shall, upon conviction thereof in a summary proceeding, be fined not less than Fifty (\$50.00) Dollars and not more than One Thousand (\$1,000) Dollars for each offense, to be collected as other fines and costs are by law collectible or imprisoned for not more than ninety (90) days, or both. Each day during which a violation occurs shall constitute a separate offense.
- B. Any person holding a Temporary Permit who is convicted of a violation of any of the provisions of this Resolution shall have his/her/its Temporary Permit revoked for one (1) full year and shall not be eligible for another Temporary Sidewalk Café permit for the duration of the Resolution.
- C. This Resolution and the foregoing penalties shall not be construed to limit or deny the right of Columbia Borough or any person to such equitable or other remedies as may be otherwise available with or without process of law. The

Borough is authorized to seek injunctive relief to enforce any provisions of this Resolution.

SECTION 9.

**ENFORCEMENT.**

- A. Police Officers and all Code Officers of the Columbia Borough are authorized to enforce the provisions of this Resolution.

SECTION 10.

**OPEN CONTAINER LAWS AND ALCOHOL.**

- A. This Resolution shall not affect the requirements of all persons to comply with any open container laws of the Commonwealth of Pennsylvania.
- B. The provisions of Chapter 77 – Alcoholic Beverages, Article 1 – Open Containers, of the Borough Code of Columbia Borough, shall not apply to the consumption of alcohol in Temporary Sidewalk Cafés operating under a Temporary Permit or to the consumption of alcohol in Public Dining Areas.
- C. In accordance with Pennsylvania law and the Sidewalk Café Resolution, holders of Temporary Permits shall comply at all times with the requirements of the Pennsylvania Liquor Control Board related to the service of alcoholic beverages.

SECTION 11.

**DISORDERLY CONDUCT.**

- A. For purposes of this Resolution, the definition of “public” set forth in Chapter 108 of the Borough Code of Columbia Borough – disorderly conduct, Section 129-1 – definitions, be and hereby is amended to include Temporary Sidewalk Cafés permitted hereunder and Public Dining Areas established by the Borough Manager.
- B. For purposes of this Resolution, any violation by an individual of this Resolution or the Rules and Regulations for the use of tables and chairs in Temporary Sidewalk Cafés or in Public Dining Areas shall constitute an act of disorderly conduct under Section 108 of the Borough Code of Columbia Borough.
- C. In addition to any of the violations and penalties set forth above, any person violating the provisions of this Resolution or the Rules and Regulations regarding the use of Temporary Sidewalk Cafés and Public Dining Areas, shall also be

subject to the violations and penalties provisions of Section 108-3 of the Borough Code

of Columbia Borough.

SECTION 14.

**SEVERABILITY.**

In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity shall not effect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Resolution; it being the intent of Columbia Borough that the remainder of the Resolution shall be and shall remain in full force and effect.

**RESOLVED**, this 9<sup>th</sup> day of June 2020

**ATTEST:**

**COLUMBIA BOROUGH COUNCIL**



Mark E. Stivers  
Secretary/Treasurer



Heather Zink  
Council President