

# RIGHT-OF-WAY USE AGREEMENT

Old Texas Brewing Company  
112 W. Ellison Street

City Council

October 16, 2023



# HISTORY

## July 21, 2015 - City Council approved a pilot program

- Allowed table top seating within four parking spaces (approximately 850 sf)
- Included potted plants and other material as physical barrier between patrons and drivers
- Considered as a means to evaluate potential for similar uses in the Old Town District

## March 1, 2016 - City Issued a Letter Agreement

Formally accepted OTB's request for a perpetual right-of-way use agreement subject to city's approval each year

### Right-of-way Use Agreements:

Used to officially permit certain private uses of rights-of-way

Document that the City is not responsible for private improvements in the request area

Confirm that the applicant must remove the improvements at the request of the City

Concept Sketch by OTB



Initial Concept Plan



# EXISTING CONDITIONS

- 850sf area currently used for table top dining
- Concrete planters - owner has stated they are beginning to deteriorate
- Tabletop patio seating with umbrellas
- Existing awnings in photo to the right have been removed and will be replaced
- Plastic railing providing barrier per letter agreement
- Galvanized metal poles in planters for purpose of patio lighting

Owner will be responsible for removal of the awning for the purpose of replacing or maintaining the existing City of Burleson public water line. The city will not be responsible for any damage to any private





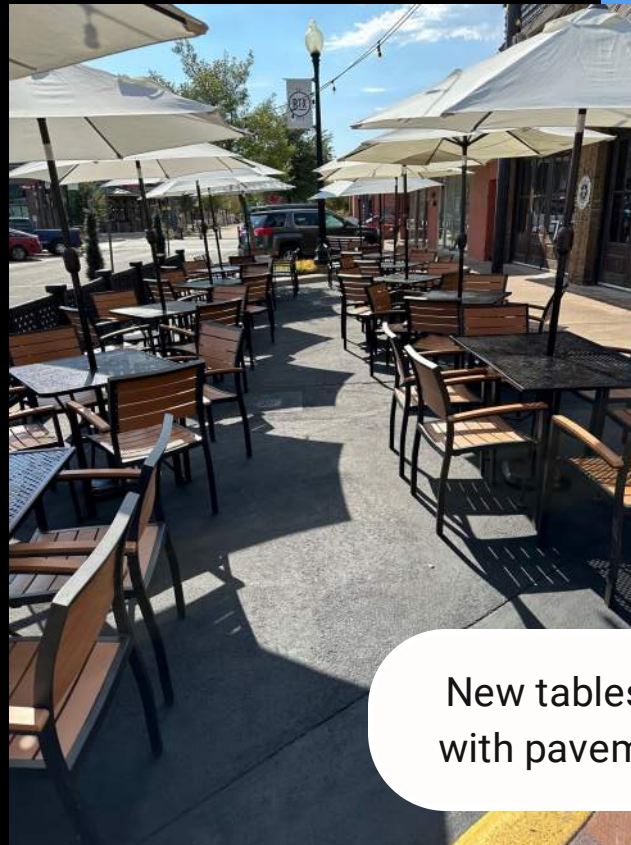
# IMPROVEMENTS

Recently Completed

- New awnings installed
- Old Texas Brewing Company sign repainted
- Logo on side of building repainted
- Sealant applied to surface of patio seating area for uniform color



New awnings and paint to refresh sign



New tables and chairs with pavement sealant





# IMPROVEMENTS

Proposed

- Removable decorative fencing to have pressure treated prestained wood accent and cap
  - Once constructed, fencing will be removable in sections
  - Removable bollards incorporated into fencing with locking mechanism - to prevent vehicular access, bollards should be placed a maximum of 5 feet apart
- New metal poles painted black to rehang patio lighting



Proposed fencing



Example -  
Bollards to be  
stand alone or  
incorporated  
into design of  
fence

New poles to  
hang lights



# CONDITIONS

Applicant shall bear all costs of tables, plants, and any other materials required including the cost of repair or replacement.

Applicant shall maintain a physical barrier between patrons of the public space and drivers on Ellison Street.

All exit pathways, sidewalks and any public access routes shall remain unobstructed at all times.

Additional measures for public safety for patrons, pedestrians and drivers in the area may be required by the City at any time.

Applicant shall be responsible for addressing any issues of compliance with the TABC.

Applicant shall clear the area of all debris and trash throughout the day and at the end of the day.

Applicant shall be responsive to concerns expressed by business owners or property owners in the Old Town District.

Applicant acknowledges that users of the public space are not required to be patrons of its restaurant.

Applicant shall be responsible for removing and replacing the improvements, including the metal decorative fencing and bollards, at its own expense in the event the City or any Franchise Utility needs perform replacement or maintenance on any existing infrastructure within the designated area.

Applicant shall be responsible for any expense incurred by the City or any Franchise Utility for removal of any improvements, including the metal decorative fencing and bollards, in the event of an emergency repair of the existing water line or any other existing public infrastructure within the designated area. Applicant agrees the City will not be responsible for any damage to the tables, chairs, and any other materials belonging to Applicant.

# REQUESTED ACTION



**APPROVE A RIGHT-OF-WAY USE  
AGREEMENT FOR APPROXIMATELY  
45 FEET OF DECORATIVE METAL  
FENCING AND REMOVABLE  
BOLLARDS**



**DENY THE RIGHT-OF-WAY USE  
AGREEMENT**