

Introduced by: City Manager Nathan Mai-Lombardo
of the City of Berkeley, MO

A RESOLUTION AUTHORIZING A SPECIAL USE PERMIT TO OPEN A RESTAURANT: HK CAFÉ\$ BISTRO LLC, LOCATED AT 8620 FROST AVENUE, IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI

- WHEREAS,** Franchett Swopes has applied to such City for the issuance of a Special Use Permit to open a restaurant; and
- WHEREAS,** in accordance with the applicable Ordinance of the City of Berkeley, such application was submitted to the City Plan Commission for its investigation and reports, and further, that such City Plan Commission has returned its final report and recommendation wherein it recommended the issuance of a Special Use Permit to Franchett Swopes to open a restaurant: HK Café\$ Bistro LLC, located at 8620 frost avenue; and
- WHEREAS,** due notice of the time, place and purpose of a virtual public hearing was published in a newspaper of general circulation in the City or posted on the city's website, being published at least fifteen (15) days prior to the date of the hearing, and written notices of said hearing were mailed to the last known places of abode of the owners of all property lying within one hundred eighty-five (185) feet of all boundaries of the property under consideration for a Special Use Permit; and
- WHEREAS,** such public hearing was duly held by the Council, on November 20, 2023, on behalf of the City of Berkeley, Missouri, in conformity with said public notice at which hearing the parties of interest were given an opportunity to be heard.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BERKELEY, MISSOURI AS FOLLOWS:

- SECTION 1.** The City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and the Special Use Permit shall be granted as the Council affirmatively finds as to the required criteria.
- SECTION 2.** The use of said tracts for the aforesaid purpose is granted subject to the following conditions:
- 1) Name of Business: *HK Café\$ Bistro LLC*.
 - 2) Hours of Operation: 7am-9pm, 7-days a week.
 - 3) Unless noted as a non-conforming condition or noted herein, building and site shall comply with all applicable health, safety, building and sign code standards as required by the City of Berkeley.
 - 4) The building, lot, yard, and landscaped areas shall be maintained and kept free
 - 5) Prior to issuance of any Occupancy Permit the above noted conditions shall be met.
 - 6) The owner/operator of this facility need to possess a current State of Missouri Certification. A copy of which should be provided to the city.
 - 7) A sign permit is required. Banners, pennants, festoons, human sign, searchlights are prohibited. Business signage shall be limited to no more than 10% of window space.
 - 8) No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
 - 9) The exterior area shall be maintained and kept free and clear of any debris or trash or weeds.

- 10) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- 11) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of any debris, trash, or weeds including maintenance of all landscaped areas
- 12) Only 10% of windows space shall be used for window signage. The petitioner will be permitted exterior signage as per the City's sign code.
- 13) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans
- 14) All required inspections by the city are required before issuance of occupancy permit or business license will be issued.
- 15) The interior will be thoroughly inspected by City's Building Commissioner and Fire Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received. Once, all required inspections are completed; apply for all necessary building/occupancy & fire safety permits from the City of Berkeley, and other jurisdictions, after obtaining City Council's approval on this Special Use Permit. Commercial Occupancy permit and Business License is required and shall be posted at all times.
- 16) In granting such special use permits, the City Council may provide that the permit be valid for a limited period of time not to exceed ten (10) years. Upon expiration of the time limit specified in the permit, the holder of the permit may request the permit be reviewed by the City Council, and the City Council may extend it for another limited period of time not to exceed ten (10) years. The City Council shall provide that the permit be exclusive only for the holder and non-transferable.
- 17) The Special Use Permit will be revoked if for any reason the applicant ceases operations and closes its doors to the public for a period of six (6) months or more, and not complying with the City's Special Use Permit. The Special Use Permit shall not be assigned, or sold, or conveyed, or operated by another without prior approval by the City Council and occupancy permit, building permit or business license shall be issued to such assignee until such approves is secured.
- 18) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. To occupy the building and facilities the applicant must comply with all the applicable rules and regulations pertaining to health and safety for vehicular and pedestrian traffic, zoning, building, sign codes, fire and safety protection standards as required by the City Fire Department, City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.
- 19) Prior to issuance of an Occupancy Inspection and Permits, the above noted conditions, the conditions as described in the attached Report, and the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council. This Special Use Permit takes effect upon the approval by City Council.
- 20) The City Council may, in accordance with Section 400.580, institute a rezoning. The City Council, after a public hearing, may revoke a special use permit for failure of compliance with regulations and restrictions of this Chapter or the requirements of the special use permit.

21) If the City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, then the special use permit shall be granted; but if it is negative as to any of such paragraphs, then the special use permit shall be denied.

SECTION 3. The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution and incorporated therein all necessary reports.

SECTION 4. This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this _____ **day of** _____, **2023**

Mayor Babatunde Deinbo

ATTEST:

Deanna Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

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|---------------------------------------|-----|-----|-----|-----|--------|-----|---------|-----|
| Councilwoman Verges | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Councilwoman Williams | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Councilman Hoskins | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Councilwoman Anthony | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Councilman Hindeleh | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Councilwoman-at-Large Crawford-Graham | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |
| Mayor Deinbo | Aye | ___ | Nay | ___ | Absent | ___ | Abstain | ___ |