

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
2 ORLANDO, FLORIDA, RELATING TO SIDEWALK CAFES;
3 AMENDING SECTION 54.28, ORLANDO CITY CODE, TO
4 ADJUST AND CLARIFY SIDEWALK CLEAR ZONE AND
5 SIDEWALK FURNITURE ZONE DIMENSIONAL STANDARDS
6 AND TO PROVIDE EXEMPTIONS FROM THE GENERAL
7 REQUIREMENT OF PROVIDING APPROVED BARRIERS
8 SEPARATING THE SIDEWALK CLEAR ZONE FROM THE
9 APPROVED SIDEWALK CAFÉ AREA FOR CERTAIN
10 EATING AND DRINKING ESTABLISHMENTS; PROVIDING
11 FOR SEVERABILITY, CODIFICATION, CORRECTION OF
12 SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

13
14 **WHEREAS**, Chapter 54 of the Code of the City of Orlando, Florida (the "Orlando
15 City Code"), currently provides authority for City staff to issue permits allowing sidewalk
16 cafes within the City's sidewalk right-of-way in certain zoning districts; and
17

18 **WHEREAS**, the purpose of this ordinance is to amend various provisions of the
19 Orlando City Code relating to sidewalk cafes in order to clarify existing regulations,
20 further encourage sidewalk cafes by eliminating confusing or unnecessary regulations,
21 adequately protect pedestrian access to the public sidewalk, and otherwise improve the
22 City's existing laws in this regard; and
23

24 **WHEREAS**, the Orlando City Council hereby finds and determines that this
25 ordinance is in the best interest of the public health, safety, and welfare; and
26

27 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
28 **OF ORLANDO, FLORIDA, AS FOLLOWS:**
29

30 **SECTION 1. SECTION 54.28, AMENDED.** Section 54.28, Orlando City Code, is
31 hereby amended as follows:
32

33 **Sec. 54.28. Sidewalk Cafes.**
34

35 (a) *Sidewalk cafes authorized.* Sidewalk cafes within the City's sidewalk right-of-
36 way that conform to the requirements of this section and other applicable provisions of
37 this Code, including permit conditions made pursuant to this section or other provisions
38 of this Code, are hereby made exempt from the prohibition on conducting business
39 within a public right-of-way as provided by section 54.27.1 of this Code.
40

41 (b) *Permit required.* In order to operate a sidewalk café under this section, the
42 operator of a licensed eating and drinking establishment must apply for, receive, and
43 operate pursuant to an active and lawfully issued sidewalk café permit from the City.
44 Sidewalk café permits are only allowed for eating and drinking establishments located
45 entirely within the MU-1, MU-2, AC-1, AC-2, AC-3, AC-3A, AC-N, or MXD-2 zoning
46 district, or within a planned development zoning district that allows eating and drinking

47 establishments. An application for a sidewalk café permit must be submitted to the City
48 permitting official on a form provided for such purpose. The application form must
49 include a description of all the information, documents, and other submissions that City
50 officials will need in order to review the proposal for compliance with this Code,
51 including, at a minimum, the following:

52
53 1. Scaled drawings of the eating and drinking establishment's internal
54 layout, including tables, chairs, bars, host or hostess stations, windows, doors, waiting
55 areas, and other features that may affect the movement and gathering of customers.

56
57 2. Scaled drawings of the proposed sidewalk café area, including a plan
58 of the layout of tables, chairs, host or hostess stations, barriers, stanchions, umbrellas,
59 utility stations, and any other features of the sidewalk café. The drawings must include
60 measurements to the nearest property lines, including the curb lines and boundaries of
61 the rights-of-way.

62
63 3. A permit application fee as set by Council.

64
65 4. Proof of insurance as required by subsection (h) of this section.

66
67 5. Proof of consent to the sidewalk café application by the operator of the
68 associated eating and drinking establishment.

69
70 6. The hours of operation for the eating and drinking establishment and
71 the sidewalk café and whether or not alcoholic beverages will be served within the
72 sidewalk café area.

73
74 Each sidewalk café permit is valid for one year, but may be renewed annually
75 after application to the permitting official. The permitting official may accept renewal
76 applications without updated scaled drawings if no changes are proposed to the features
77 described in subsections 58.28(b) 1. and 2. With at least five days written notice, the City
78 may temporarily suspend sidewalk café permits if necessary to safely accommodate
79 special events such as parades, street festivals, or foot or bicycle races, or other
80 function of the City.

81
82 (c) *General regulations.* All sidewalk cafés must conform to the following
83 regulations:

84
85 1. Sidewalk cafés may not include any permanent installations or
86 improvements within the public right-of-way unless otherwise approved by a separate
87 encroachment agreement or license.

88
89 2. The area authorized for use as a sidewalk café must be delineated with
90 metal pins placed into and flush with the sidewalk surface. The pins will be provided and

ORDINANCE NO. 2014-16

91 installed by the City. The area within the boundary of the pins is the area permitted for
92 use as a sidewalk café. The only time that the sidewalk café may expand outside of the
93 area delineated by the sidewalk pins is when the adjacent street is closed to traffic by
94 the City for a special event. In this event, the sidewalk café area may extend to the back
95 of curb if the permittee posts adequate notice that the sidewalk within the expanded
96 sidewalk café area is closed to pedestrian traffic and if the permittee submitted and
97 received approval of plans depicting the expanded sidewalk café area from the City
98 permitting official.

99
100 3. The sidewalk café must be accessory to a legally existing and
101 conforming principal use eating and drinking establishment.

102
103 4. The sidewalk café must not need a zoning or design variance in order
104 to be implemented according to its approved plan.

105
106 5. The sidewalk café must allow for a clear, straight, unobstructed
107 pedestrian pathway at least five feet wide measured from the sidewalk café area to the
108 sidewalk furniture zone. For purposes of this Code, this clear, unobstructed pedestrian
109 pathway may be known as the "sidewalk clear path," and the area of the sidewalk
110 between the back of curb and the sidewalk clear path where public utilities, landscaping,
111 and furniture are often installed may be known as the "sidewalk furniture zone." For
112 purposes of this section, the sidewalk furniture zone is typically five feet in width
113 measured from the back of curb, but may be less in downtown. At corners, the sidewalk
114 furniture zone is at least five feet in width measured from the back of access ramps,
115 except outside the AC-3A/T zoning district, where it may be as narrow as four feet in
116 width. The permitting official may approve a narrower sidewalk clear path for sidewalk
117 cafes outside the AC-3A/T zoning district if the sidewalk café area is at least six feet
118 from the back of the street curb, five feet from any vertical obstruction in the sidewalk
119 (e.g. utility poles and street furniture), four feet from any horizontal obstruction in the
120 sidewalk (e.g. tree grates, planters, and ramps), and the permitting official finds that the
121 remaining sidewalk clear path is safe and adequate for normal pedestrian and disabled
122 access. The sidewalk café area is prohibited within the sidewalk furniture zone except in
123 mixed-use planned development zoning districts where the sidewalk furniture zone may
124 be adjacent to on-street parking as well as adjacent to the building. In such cases, the
125 permitting official must find that the sidewalk furniture zone provides adequate area to
126 safely accommodate the proposed sidewalk café furniture and pedestrian movements
127 through the café area.

128
129 6. The sidewalk café area, including the furniture, barriers, and business
130 wares comprising the sidewalk café, along with the adjacent sidewalk clear path and
131 sidewalk furniture zone, must be kept in a clean and safe condition at all times.

132
133 7. Sidewalk cafes must be built and maintained in accordance with their
134 approved plans.

135
136 8. Sidewalk café permittees must have the sidewalk café area, the
137 adjacent sidewalk clear path, and the adjacent sidewalk furniture zone pressure washed
138 with a commercial-grade pressure washer at least monthly. The permittee must maintain
139 records of each pressure washing and must provide these records to the City upon
140 request. Satisfying this requirement does not absolve the permittee from otherwise
141 keeping the sidewalk café area, the adjacent sidewalk clear path, and the adjacent
142 sidewalk furniture zone in a clean and safe condition at all times.

143
144 9. The design, appearance, and dimensions of all furniture within the
145 sidewalk café area is subject to review and approval by minor certificate of appearance
146 approval or minor certificate of appropriateness, if either is required by Code, or by the
147 appearance review official if outside the jurisdiction of the Appearance Review Board
148 and the Historic Preservation Board.

149
150 10. Signs are prohibited within the sidewalk café area except for menu
151 boards approved pursuant to section 64.249 of this Code and onsite signs printed on
152 approved café umbrellas. Signs on café umbrellas are exempt from maximum sign area
153 restrictions. Menu boards associated with sidewalk cafés must be kept out of the
154 sidewalk clear path, but may be placed within the sidewalk furniture zone or the sidewalk
155 café area.

156
157 11. Outdoor speakers may be approved for use in the sidewalk café area.
158 The design, appearance, dimensions, and directional orientation of speakers are subject
159 to review and approval by minor certificate of appearance approval or minor certificate of
160 appropriateness, if either is required by Code, or by the appearance review official if
161 outside the jurisdiction of the Appearance Review Board and the Historic Preservation
162 Board. Sound from outdoor speakers is subject to the City's noise ordinance.

163
164 12. All sidewalk cafes must include tables and chairs. At all times the
165 number and location of the tables and chairs must be maintained in accordance with the
166 sidewalk cafes' approved site plan. Assembly occupancy is prohibited within the
167 sidewalk café area.

168
169 Figure 54.28-1 depicts an example of a sidewalk café and its spatial relationship
170 to the sidewalk clear path and the sidewalk furniture zone. This figure is for illustrative
171 purposes only and to the extent that it contradicts any part of this Code, the Code
172 prevails.

173
174 ****[Drafter's note – Figure 54.28-1 is located here in the official version of the
175 Orlando City Code, but is omitted from this ordinance.]****
176

177 (d) *Special permit conditions.* The city permitting official may impose special
178 conditions upon a sidewalk café permit if he or she finds it necessary in order to
179 preserve the public health, safety, or welfare.

180 (e) *Permit revocation.* A sidewalk permit may be revoked if:

181
182
183 1. The sidewalk café, the building housing the principal use eating and
184 drinking establishment associated with the sidewalk café, or the business running the
185 sidewalk café is found in violation of law.

186
187 2. The sidewalk café is not built and maintained as depicted on its
188 approved plans.

189
190 3. The sidewalk café is not built and maintained in accordance with the
191 requirements of this section.

192
193 4. The sidewalk café is not built and maintained in accordance with its
194 special permit conditions.

195
196 (f) *Nature of the permit.* The sidewalk café permit is a license to temporarily use
197 the City's sidewalk right-of-way. It is not intended and shall not be construed as an
198 interest in real property.

199
200 (g) *Alcohol service.* Sidewalk cafes where alcoholic beverages are offered for
201 sale or are otherwise provided to guests or customers must conform to the following
202 additional regulations:

203
204 1. The principal use eating and drinking establishment to which the
205 sidewalk café is associated must be properly permitted by all applicable government
206 agencies to dispense alcoholic beverages for consumption on premises. All government
207 permits that authorize the dispensation of alcoholic beverages must reflect the sidewalk
208 café area as part of the licensed premises. Once such permits reflect the sidewalk café
209 area as part of the licensed premises, the sidewalk café area is hereby made exempt
210 from the prohibition on the sales and consumption of alcoholic beverages outside of a
211 licensed building as provided at section 33.09 of this Code.

212
213 2. During all business hours of the sidewalk café, a conspicuous sign
214 must be posted within the sidewalk café area that effectively notifies patrons that section
215 33.10 of this Code prohibits removing open containers of alcoholic beverages from the
216 licensed premises. The location, dimensions, and design of this notice is subject to
217 review and approval by the City. This sign is hereby made exempt from the calculation of
218 maximum sign area as regulated by this Code.

219

220 3. Seating and other customer gathering areas ~~within the sidewalk café~~
221 must be separated from the sidewalk clear path by stanchions, railings, or other
222 approved barrier at least three feet in height. The design, appearance, and dimensions
223 of the stanchions, railings, or other approved barrier are subject to review and approval
224 by minor certificate of appearance approval or minor certificate of appropriateness, if
225 either is appropriate, or by the appearance review official if outside the jurisdiction of the
226 Appearance Review Board and the Historic Preservation Board. The following are
227 exempt from this subsection:

228
229 A. Sidewalk cafes located outside of the Downtown Activity Center
230 future land use map designation if the associated eating and drinking establishment
231 derives at least 51% of its gross revenues from the sale of food and non-alcoholic
232 beverages. In determining whether a sidewalk café qualifies for this exemption, the
233 permitting official shall apply the provisions of section 58.713(D) of this Code.

234
235 B. Sidewalk cafes located within a mixed-use planned
236 development zoning district where the planning official finds that a barrier described by
237 this subsection would unreasonably interfere with the purpose and intent of the
238 planned streetscape design.

239
240 (h) *Insurance required.* All sidewalk café permittees must maintain
241 comprehensive liability insurance covering against personal injury and property damage
242 in an amount consistent with City policy. A certificate of insurance naming the City as an
243 additional insured and requiring that the City be notified at least 30 days before
244 termination or decrease in coverage must be delivered to the permitting official before
245 the permit is issued.

246
247 **SECTION 2. CODIFICATION.** The City Clerk and the City Attorney shall cause
248 the Code of the City of Orlando, Florida, to be amended as provided by this ordinance
249 and may renumber, re-letter, and rearrange the codified parts of this ordinance if
250 necessary to facilitate the finding of the law.

251
252 **SECTION 3. SCRIVENER'S ERROR.** The City Attorney may correct scrivener's
253 errors found in this ordinance by filing a corrected copy of this ordinance with the City
254 Clerk.

255
256 **SECTION 4. SEVERABILITY.** If any provision of this ordinance or its
257 application to any person or circumstance is held invalid, the invalidity does not affect
258 other provisions or applications of this ordinance which can be given effect without the
259 invalid provision or application, and to this end the provisions of this ordinance are
260 severable.

261
262 **SECTION 5. EFFECTIVE DATE.** This ordinance takes effect upon adoption.
263

ORDINANCE NO. 2014-16

264 **DONE, THE FIRST READING**, by the City Council of the City of Orlando,
265 Florida, at a regular meeting, this _____ day of _____, 2014.

266
267 **DONE, THE PUBLIC NOTICE**, in a newspaper of general circulation in the City
268 of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day
269 of _____, 2014.

270
271 **DONE, THE SECOND READING, THE PUBLIC HEARING, AND ENACTED ON**
272 **FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City
273 Council of the City of Orlando, Florida, at a regular meeting, this _____ day of
274 _____, 2014.

275
276 BY THE MAYOR/MAYOR PRO TEMPORE
277 OF THE CITY OF ORLANDO, FLORIDA:

278
279
280 _____
281 Mayor / Mayor Pro Tempore

282
283 ATTEST, BY THE CLERK OF THE
284 CITY COUNCIL OF THE CITY OF
285 ORLANDO, FLORIDA:

286
287 _____
288 City Clerk

289
290 APPROVED AS TO FORM AND LEGALITY
291 FOR THE USE AND RELIANCE OF THE
292 CITY OF ORLANDO, FLORIDA:

293
294 _____
295 Assistant City Attorney

296
297 ****[Remainder of page intentionally left blank.]****