

**AN ORDINANCE TO ENACT CHAPTER 70, ARTICLE VII OF THE
THOMASVILLE CODE OF ORDINANCES: SIDEWALK DINING**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THOMASVILLE:

Chapter 70, Article VII of the Thomasville Code of Ordinances is hereby enacted to read as follows:

SECTION 1: ARTICLE VII- SOCIAL DISTRICT SIDEWALK CAFE

Sec. 70-170. Permit generally.

Notwithstanding any other provision of this Code, the city manager or his/her/their designee may issue permits to restaurants as defined herein for the serving of food and beverages on city sidewalks and pedestrian ways in the area of the city known as the Downtown Sidewalk Cafe District as herein described.

Sec. 70-171. Definitions.

The following definitions shall apply in this division:

- (a) *Downtown sidewalk cafe district.* The downtown sidewalk cafe district shall mean that part of the City of Thomasville, which is included within and bounded as follows: East and West Main Street on the north-side; East and West Main Street on the south-side; Commerce Street to Cramer Street on the east; and Mock Street to Trade Street on the west – all being the area depicted on the attached Map.

The downtown sidewalk cafe district shall include the sidewalks on both sides of the boundary streets to form the district.

- (b) *Establishment.* An establishment engaged in the business of regularly and customarily selling food and or beverages, primarily to be consumed on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses, bars, grills and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises.
- (c) *Pedestrian way.* An improved walk or passageway intended for use by pedestrians, but not adjacent to any city street.
- (d) *Restaurant operator.* The person, partnership, limited liability company, firm, or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner, and manager if different from the

owner, of the restaurant and associated sidewalk cafe.

- (e) *Sidewalk.* That improved portion of a public street between the curb line or the lateral lines of a roadway if there is no curb, and the adjacent property line that is intended for the use of pedestrians.
- (f) *Street.* The entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 70-172. *Application.* Any establishment desiring to operate a sidewalk cafe shall prepare and file an application with the city manager or their designee which shall contain the following information:

- (a) The name, address, and telephone number of the establishment desiring to operate a sidewalk cafe.
- (b) The name, address, and telephone number of the establishment operator.
- (c) The type of food, beverage, or food product to be sold and served at the sidewalk cafe.
- (d) The hours of operation of the establishment and the proposed hours of operation of the sidewalk cafe.
- (e) A scaled site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, the section to be kept clear for pedestrian and fire access, and depicting the proposed placement of tables, chairs, barricades, umbrellas, trash receptacles, and other structures and furnishings on the sidewalk or pedestrian way. In no case shall a sidewalk café violate the provisions of N.C.G.S. 20-174.1.
- (f) Proof of an insurance policy, issued by an insurance company licensed to do business in the State of North Carolina, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the city as additional insured without a municipal exclusion and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty(30) days advance written notice to the city. Such insurance shall afford minimum limits of one hundred thousand dollars (\$100,000.00) combined for property and bodily injury and three hundred thousand dollars (\$300,000.00) aggregate annually.
- (g) A copy of all permits and licenses issued by the county, state or the city, including health and ABC permits and business licenses and permits, necessary

for the operation of the restaurant business, or a copy of the application for the permit if no permit has yet been issued.

- (h) Such additional information as may be requested by the city manager or their designee to determine the compliance with this section.

Sec. 70-173. *Issuance of permit.*

No permit for the operation of a sidewalk cafe may be issued unless the application is complete and the following requirements are met:

- (a) The sidewalk cafe must be associated with an operating establishment such that it is under the same management and shares the same food preparation facilities, rest room facilities and other customer convenience facilities. The sidewalk cafe must be operated under the same name as the associated establishment and may be open or operated only at times when the establishment is open for business.
- (b) The operation of the sidewalk cafe must be clearly incidental to the associated establishment. The seating capacity of the sidewalk cafe may not be more than fifty (50) percent of the interior seating capacity of the associated restaurant.
- (c) The placement of tables, chairs, and other furnishings as shown in the drawing submitted with the site plan must be done in such manner that at least five (5) feet of unobstructed space remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits, hydrants, FDC or lanes may be blocked and must remain clear at all times. All applicable regulations pursuant to the Americans with Disabilities Act/PROWAG must be met.
- (d) The establishment seeking to operate a sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for use. The placement of tables, chairs and other furnishings may extend beyond the frontage of the associated establishment. With the written permission of the adjoining property owner and tenant the sidewalk café may extend onto the abutting property but may not extend beyond a mid-block crossing, curb cut, alleyway or vehicular entrance.
- (e) The tables, chairs and other furnishings used in the sidewalk cafe shall not be anchored. Sidewalk cafes that require the installation of ramps, railings or structures must meet engineering standards appropriate for the intended use. All applicable regulations pursuant to the Americans with Disabilities Act/PROWAG must be met.
- (f) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk cafe shall involve no permanent alteration to any sidewalk or pedestrian way or to the exterior of the associated establishment.

- (g) The operation of the sidewalk cafe shall at all times be in accordance with the requirements of this Sec. 70-173. At the direction of the city manager or their designee, any improperly placed or improperly sized furniture or barricade shall be removed.
- (h) Each sidewalk cafe shall provide adequate trash receptacles for its patrons within the perimeters of the barricades. At the end of each business day and during operating hours the operator shall remove all trash and debris of any sort from the area within the barricade and between it and the curb or travel lane, and in addition shall remove from the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk cafe.

Sec. 70-174. Alcoholic beverages.

Notwithstanding any other provisions of the City Code, alcoholic beverages may be served at sidewalk cafes provided the requirements of Chapter 70, Article VI - Social District - are met.

Sec. 70-175. Denial.

A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based.

The applicant may appeal the denial of the permit to the city council within fifteen (15) working days after the date of the written denial and the city council may take such action as it shall find necessary. The findings and determination of the city council shall be final.

Sec. 70-176. Permit revocation.

The city manager may revoke a permit issued pursuant to this section, if they find that the establishment operator has:

- (a) Deliberately misrepresented or provided false information in the permit application.
- (b) Violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances.
- (c) Operated the sidewalk cafe in such a manner as to create a public nuisance or

to constitute a hazard to the public health, safety, or welfare; including failure to keep the street or sidewalk cafe area clean and free of refuse and trash.

- (d) Failed to maintain any health, business, ABC, or other permit or license required by law.
- (e) Operated the restaurant or sidewalk cafe in violation of this division or of any city, county, state, or federal law, ordinance, or regulation.
- (f) Failure to maintain required ADA pedestrian access free from obstructions.

Before the revocation of a permit, the city manager or their designee shall notify the permit holder of the intent to revoke the permit in writing and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager or their designee shall notify the permit holder in writing of this decision and the reasons therefor. A decision to revoke a permit may be appealed to the city council within fifteen (15) working days in accordance with the provisions of Sec. 70-175.

Sec. 70-177. *Reservation of rights.* The city reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any sidewalk, utility, or public building by the city, its agents, or employees, or by any other governmental entity or public utility.

Sec. 70-178. *Term transfer, renewal.* Permits issued in accordance with the provisions of this section shall:

- (a) Be issued for a period of two (2) years beginning on the first day of the month following the date of issuance.
- (b) Be in addition to any other permit required pursuant to this Code.
- (c) Not be transferable or assignable, to include when the business or property is sold and the new owner or tenant operates a similar establishment.
- (d) Renewal of the permit must be requested thirty (30) days prior to expiration. Renewals will be issued for a period of two (2) years.

SECTION 2. This Article shall become effective 30 days from the date of adoption.

SECTION 3. That all ordinances in conflict with the provisions of this ordinance are

hereby repealed to the extent of such conflict.

Upon the motion of Council Member Hunt, and a second by Council Member Thrift, the foregoing ordinance was passed upon its first reading by a vote of 7 – 0.

Date of Adoption: May 16, 2022.

CITY OF THOMASVILLE

By: Raleigh York, Jr.
Raleigh York, Jr., Mayor

Attest: Wendy S. Martin
Wendy S. Martin, City Clerk

