

**ORDINANCE**

**AN ORDINANCE AMENDING CHAPTER 62, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES OF THE CODE OF ORDINANCES OF THE CITY OF ROYSTON, GEORGIA BY ADDING ARTICLE VI, SIDEWALK CAFES TO PROVIDE FOR A PURPOSE; DEFINITIONS; PERMITS AND APPLICATIONS; ISSUANCE OF PERMITS; PERMIT FEES; REGULATIONS GENERALLY; LIABILITY AND INSURANCE; REVOCATION OR SUSPENSION OF PERMITS; TO PROVIDE FOR FINES FOR VIOLATION; TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

It is hereby ordained by the Mayor and Council of the City of Royston, Georgia:

**Section 1.**

The Ordinance amending Chapter 62, Streets, Sidewalks and Other Public Places by adding Article VI, Sidewalk Cafes as set forth in Exhibit "A" attached hereto is hereby adopted.

**Section 2.**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 3.**

This ordinance shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by the Mayor and Council of the City of Royston, Georgia.**

\_\_\_\_\_  
William C. Stewart, Jr., Mayor

Attest:

\_\_\_\_\_  
City Clerk

[SEAL]

## ARTICLE VI. SIDEWALK CAFES

### Sec. 62 – 127. Purpose

This chapter shall apply to the establishment, operation, and maintenance of all outdoor cafes within the City of Royston on public sidewalk. The purpose of this chapter is to promote the general economic development and atmosphere of City of Royston for the benefit of businesses and citizens located there, and no right of individuals or individual businesses are created therein, and to create an aesthetic ambiance which will attract tourists to the Royston area. Further, this chapter is designed to maintain the efficiency of the pedestrian path.

### Sec. 62 – 128. Definitions

(a) *Sidewalk Cafe*. The term "sidewalk cafe" shall mean the location and use of tables and chairs on the public sidewalk and operated as an extension of a licensed food or beverage establishment in the City of Royston and which sidewalk café shall be an incidental activity of the establishment.

(b) *Manager*. The term "manager" shall mean the City Manager of the City of Royston, or his/her designee.

(c) *Permittee*. The term "permittee" shall mean the recipient of a sidewalk café permit under the terms and provisions of this chapter.

(d) *City Clerk*. The term City Clerk shall mean the office manager of the City Hall of Royston.

### Sec. 62 – 129. Permit

It shall be unlawful for any person to operate a sidewalk café in the City of Royston without a permit issued by the City Clerk, or to fail to comply with all sections of the sidewalk café ordinance. Such permit shall be renewed annually at a time to be designated by the City Clerk.

The issuance of a sidewalk café permit shall not be construed or interpreted to convey any property rights or any leaseholder rights to any person or business. The provisions of this chapter are subject to change and amendment by the mayor and council from time to time. Sidewalk Café permits are non-transferable. Permits will expire upon transfer of ownership, change in use of facility, and December 31 of each year. The issuance of a Side Walk permit does not constitute approval for alcohol to be sold outside of the licensed business. Alcohol sales are regulated in Chapter 6 Alcoholic Beverages of the Code of Ordinances of the City of Royston, Georgia. Any conflict between this ordinance and another will be resolved in the most conservative or restrictive interpretation that will give the greatest advantage to the City of Royston.

### Sec. 62 – 130. Application

Any person desiring to operate a sidewalk café shall submit an application to the City Clerk on a form prescribed by the City Clerk. The application shall include, but not be limited to, the following:

- (1) Name of applicant;
- (2) Name, address, and telephone number of restaurant;
- (3) A copy of a valid City of Royston occupational tax certificate to operate a business in front of which the sidewalk café will be located;
- (4) A copy of a current certificate of insurance in the amounts and categories required by section Liability and Insurance of this chapter;
- (5) A sketch identifying the perimeter area, the dimensions of area, the dimensions from perimeter to curb or nearest obstacle i.e. lamppost/trash receptacle/tree etc.

### **Sec. 62 – 131. Issuance of Permit**

Applicant shall be notified within two weeks of application submission of approval/denial of permit. If permit is denied, applicant shall be provided an explanation of the denial.

### **Sec. 62 – 132. Permit Fee**

The annual permit fee to operate a sidewalk café in an approved/permitted area shall be in such amount as determined from time to time by resolution of the Mayor and the City Council.

Prior to issuance or renewal of a sidewalk café permit, the government's chief financial officer shall verify that there are no outstanding business taxes or fees owed to the government by the person or entities requesting a sidewalk café permit. A sidewalk café permit will not be issued until all outstanding debts to the City of Royston are paid in full.

### **Sec. 62 – 133. Regulations Generally**

A sidewalk café operating in the City of Royston shall comply with the following regulations:

(1) *Limitations on area.* The area in which a sidewalk café is operated shall abut the outside front wall of the restaurant of which it is an extension and shall not extend parallel in either direction beyond the outside front wall of the restaurant. The area permitted for a sidewalk café shall not extend more than nine (9) feet perpendicular from the outside wall of the restaurant; however, a minimum of four (4) feet shall be provided at all times for continuous unobstructed pedestrian traffic on the sidewalk between the sidewalk café area and the curb or nearest obstacle. Tables and chairs shall not extend beyond such limits. A minimum of two feet of unobstructed space shall be maintained at all times around any permanent public fixture within or adjacent to the designated area. Each table may be equipped with an umbrella that, when open, shall extend to at least the same diameter as the table it serves and shall be anchored with a weighted base. Any umbrella protruding into public space shall be positioned at a minimum height of seven feet. An umbrella may display the name or logo of the restaurant operating the sidewalk café and/or advertise a product in compliance with the exceptions; see Alcohol Ordinance Sec. 6-43. Each umbrella shall be maintained in good, clean, and operable condition.

(2) *Divider required.* The area permitted for a sidewalk café shall be separated from the remaining sidewalk area by a system of connected railing and post that would serve to contain crowds and maintain the boundaries of the café. The system shall be designed and constructed

such that it resists movement and can be disassembled and removed if necessary. The design must be included in the application and must be approved by the manager prior to issuance of a permit. Such divider shall not be less than three feet nor more than four feet in height. All tables and chairs shall be located totally within the limits of the divider. It shall be the responsibility of the permittee to maintain the divider in its exact/approved location at all times.

(3) *Sanitation.* It shall be the responsibility and duty of the restaurant to which the sidewalk café permit is issued to maintain the area covered by the permit in a clean, neat, and orderly manner at all times. The area shall be cleared of all debris at all times. It shall also be the responsibility of the permit holder to pressure wash the sidewalk surface on which the sidewalk café is located no less often than once every three months. Permittee shall sweep the sidewalk and collect the debris prior to pressure washing and shall maintain records of date sidewalk was pressure washed and by whom, and such records shall be open to inspection by the City of Royston. Pressure washing by permittee shall be conducted using water only. The use of cleaning agents is prohibited. All tables and chairs are to be kept clean, sanitary, safe, and in structurally sound condition at all times.

(4) *Removal of furnishings.* All tables, chairs, and dividers of a sidewalk café shall be removed from the public sidewalk area as notified by the city for maintenance.

(5) *Suspension or modification of operation.* The manager shall have the authority to require any sidewalk café operating in an area created by this section to suspend operation and clear such area, or to move or modify the location or operation of the sidewalk café, for things such as, but not limited to:

- a. Any permitted special event;
- b. Any street, sidewalk, or utility construction;
- c. Any emergency situations; or
- d. The protection of the health, safety, and welfare of the public.

## **Sec. 62 – 134. Liability and Insurance**

(a) Except for actions arising out of City of Royston's sole negligence, the permittee agrees to indemnify, defend, save, and hold harmless the City of Royston, its officers and employees, from any and all claims, liability, damages, and causes of action which may arise out of the permit or the permittee's activity on the premises.

(b) The permittee agrees to meet and maintain for the entire permit period, at its own expense, the following requirements:

(1) Commercial general liability in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. The City of Royston must be named as an additional insured on this policy, and an endorsement must be issued as part of the policy reflecting compliance with this requirement.

(2) The City of Royston must receive 30 days written notice prior to any cancellation, non-renewal, or material change in the coverage provided.

(3) The permittee must provide an original certificate of insurance as evidence that the above requirements have been met prior to issuance of a permit.

### **Sec. 62 – 135. Revocation or Suspension of Permit**

The approval of a sidewalk café permit is conditional at all times. A sidewalk café permit may be revoked or suspended by the City of Royston manager or his/her designee; upon one or more of the following occurrences.

- (1) Any necessary business or health permit has been suspended, revoked, or cancelled.
- (2) The permittee does not have insurance which is correct and effective in the minimum amounts described in section liability insurance.
- (3) The permittee has failed to correct violations of this chapter or any other ordinance within 48 hours of receipt of the manager's notice of same delivered in writing to the permittee.
- (4) The permittee has a history of violations of this chapter of three or more within a two-year period, or immediately upon any violation depending upon severity of the violation.
- (5) Permits may be suspended for a period up to 12 months depending upon history and severity of violations.

### **Sec. 62 – 136. Fines for Violators**

The following minimum fines shall be set for violations of this chapter:

- (1) First citation: \$100.00 fine.
- (2) Second citation (within one-year period): \$250.00 fine.
- (3) Third citation (within one-year period): \$500.00 fine.

### **Sec. 62 – 137. Americans with Disabilities Act**

Any person or entity receiving a permit hereunder agrees to fully comply with all requirements of the Americans with Disabilities Act as currently existing or as may be hereafter amended.

### **Sec. 62 – 138. Severability of Part of Code**

It is hereby declared to be the intention of the mayor and council that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this chapter, since the same would have been enacted by the mayor and council without the incorporation in this chapter of any such invalid phrase, clause, sentence, paragraph, or section.