

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA
WITH RESPECT TO **SIDEWALK CAFES** AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-10-2 entitled “*Definitions*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding a new subsection (j), so that the new subsection is:

“Sec. 6-10-2. – Definitions.

- (j) *Specialty Shop.* Any public place kept, used, maintained, and advertised and held out to the public as a place where prepared food products, desserts, or non-alcoholic beverages are prepared and served, such place being provided with an adequate and sanitary kitchen, and holding a certificate of inspection and approval from the county health department. Examples of specialty shops include coffee shops, ice cream parlors, chocolatiers, and cookie shops.”

SECTION 2. Section 6-10-7 entitled “*Regulations generally*” of the Code of Athens-Clarke County, Georgia, subsection (9), is hereby amended by adding the words “or specialty shop,” so that the new subsection is:

“Sec. 6-10-7. – Regulations generally.

- (9) Smoking is prohibited in sidewalk cafes operated by a restaurant or specialty shop.”

SECTION 3. Section 6-10-7 entitled “*Regulations generally*” of the Code of Athens-Clarke County, Georgia, is hereby modified by adding a new subsection (10), so that the new subsection is:

“Sec. 6-10-7. – Regulations generally.

- (10) When maximum sidewalk café depths are identified in this ordinance, they are to be calculated based on a building average that excludes alcoves that extend back into private property. A building average is generally calculated by measuring at the most prominent fixed points on a building or store front at their corners, and approximate center in a location that is not utilized for building ingress/egress.”

SECTION 4. Section 6-10-8 entitled “*Exceptions*” of the Code of Athens-Clarke County, Georgia, subsection (a), part (5), is hereby deleted in its entirety and the following new subsection is inserted in lieu thereof:

“Sec. 6-10-8. – Exceptions.

- (a) Common area sidewalk cafes on College Square are exempt from paragraph (2) of section 6-10-7, which requires the installation of cafe dividers. Such dividers are prohibited within common area sidewalk cafes. In addition to all other provisions

applicable to sidewalk cafes as provided for in section 6-10-7 herein, the following additional provisions shall apply to common area sidewalk cafes:

- (5) 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 bar, restaurant, or specialty shop operating the sidewalk cafe and/or advertise a product. Each umbrella shall be maintained in good, clean, and operable condition.”

SECTION 5. Section 6-10-8 entitled “*Exceptions*” of the Code of Athens-Clarke County, Georgia, subsection (c), is hereby deleted in its entirety and the following new subsection is inserted in lieu thereof:

“Sec. 6-10-8. – Exceptions.

- (c) For sidewalk cafés operated by restaurants and specialty shops on East Clayton Street, the following provisions shall apply:
 - (1) When café dividers are utilized, the area permitted for a sidewalk café operated by a restaurant or a specialty shop shall not extend beyond the building side of the banding strip where present while maintaining a minimum width of five feet at all times for Americans with Disabilities Act-compliant pedestrian traffic on the sidewalk between the sidewalk café area and any fixed obstacles. Café dividers may not be anchored into the banding strip.
 - (2) Café dividers are optional for sidewalk cafes operated by restaurants and specialty shops.
 - (a) When café dividers are not utilized, the area permitted for a sidewalk café may extend to the street side of the banding strip so long as the café maintains a minimum width of four feet of Americans with Disabilities Act-compliant pedestrian traffic on the sidewalk between the sidewalk café furniture or fixtures, and any fixed obstacles.
 - (b) Within a twelve month period, any permitted sidewalk café that is documented to have three or more incidences of encroachment of sidewalk café furniture or fixtures beyond the street side of the banding strip, will be required to install café dividers compliant with the requirements of this ordinance if the café is to remain in operation.
 - (c) For sidewalk cafes operated by restaurants, alcohol may be served to, and consumed by, seated patrons only.

- (d) The permittee or operator of a sidewalk café shall have the responsibility to ensure that patrons are informed that open containers of alcohol, if otherwise permitted, are not allowed outside of the permitted sidewalk café area when no café dividers are present.”

SECTION 6. Section 6-10-8 entitled “*Exceptions*” of the Code of Athens-Clarke County, Georgia, subsection (d), is hereby deleted in its entirety and the following new subsection is inserted in lieu thereof:

“Sec. 6-10-8. – Exceptions.

- (d) For sidewalk cafes operated by bars on East Clayton Street, the following provisions shall apply:
 - (1) Where an average of 36 inches of space exists between the building and the building side of the banding strip, the area permitted for a sidewalk café operated by a bar shall not extend more than four feet measured perpendicular from the face of the building, or to the building side of the banding strip where present, whichever is less, while maintaining a minimum width of five feet at all times for Americans with Disabilities Act-compliant pedestrian traffic on the sidewalk between the sidewalk café area and any fixed obstacles.
 - (2) Where an average of less than 36 inches of space exists between the building and the building side of the banding strip, the area permitted for a sidewalk café operated by a bar shall not extend more than six inches of the street side of the banding strip where present, while maintaining a minimum width of four feet, for Americans with Disability Act-compliant pedestrian traffic on the sidewalk between the sidewalk café area and any fixed obstacles.
 - (3) Café dividers may not be anchored into or within two inches of the banding strip.

SECTION 7. Chapter 6-10 entitled “*Sidewalk Cafes*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding a new Section 6-10-14 entitled “*Administrative appeal and variances*,” so that said new section is:

“CHAPTER 6-10. – SIDEWALK CAFES

Sec. 6-10-14. – Administrative appeal and variances.

- (1) The suspension, revocation, or denial of a permit shall entitle the person submitting the application or holding the permit to a hearing before the Administrative Hearing Officer within thirty (30) days of written notice from the issuing authority of suspension, revocation, or denial of a permit.

- (2) Sidewalk café permit holders and applicants may request a variance review with the Administrative Hearing Officer to contest a staff ruling on sidewalk café design, spacing, or use. Such variance may be granted in such individual case of unnecessary hardship upon deliberation of the evidence and a finding by the Administrative Hearing Officer that:
- (a) There are extraordinary and exceptional conditions pertaining to the particular sidewalk café in question because of right-of-way, building or sidewalk size, shape, character, or topography that do not apply generally to other cafés in the vicinity; and
 - (b) The strict application of the provisions of this title to this particular café would create an undue and unnecessary hardship so that the grant of the variance is necessary for the preservation and enjoyment of a sidewalk café and not merely to serve as a convenience to the applicant; and
 - (c) The special conditions and circumstances do not result from the actions of the applicant; and
 - (d) The variance, if granted, does not conflict with the Americans with Disabilities Act; and
 - (e) The benefits of granting the variance will be greater than any negative impacts and will further the purpose and intent of this title and the comprehensive plan of Athens-Clarke County.
- (3) No petition for the same variance involving the same applicant once heard and acted upon by the Administrative Hearing Officer shall be accepted for a rehearing until the expiration of at least 12 months immediately following the previous decision.

SECTION 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.