

ORDINANCE NO. 2021-39

1 **AN ORDINANCE OF THE CITY COUNCIL OF THE**
2 **CITY OF ORLANDO, FLORIDA, RELATING TO**
3 **RESTRICTIONS ON USE OF THE PUBLIC**
4 **RIGHTS-OF-WAY; IMPOSING A TEMPORARY**
5 **MORATORIUM ON NEW PERMITS AND PERMIT**
6 **RENEWALS FOR SOUND AMPLIFICATION**
7 **DEVICES WITHIN THE PUBLIC RIGHTS-OF-WAY**
8 **IN THE DOWNTOWN ENTERTAINMENT AREA;**
9 **ADOPTING FINDINGS OF FACT; DIRECTING**
10 **STAFF TO STUDY AND REPORT TO THE CITY**
11 **COUNCIL ON PUBLIC HEALTH, SAFETY, AND**
12 **WELFARE CONCERNS RELATING TO THE USE**
13 **OF SOUND AMPLIFICATION DEVICES WITHIN**
14 **THE PUBLIC RIGHTS-OF-WAY IN THE**
15 **DOWNTOWN ENTERTAINMENT AREA BY A**
16 **DATE CERTAIN; AMENDING SECTION 54.28,**
17 **ORLANDO CITY CODE TO PROVIDE A METHOD**
18 **FOR ESTABLISHING HOURS OF OPERATION**
19 **FOR SIDEWALK CAFES; PROVIDING FOR,**
20 **SEVERABILITY, CORRECTION OF SCRIVENER'S**
21 **ERRORS, AND AN EFFECTIVE DATE.**

22
23 **WHEREAS**, as provided in section 2(b), Article VIII of the Constitution of the
24 State of Florida, and section 166.021(1), Florida Statutes, the City of Orlando, Florida, a
25 municipal corporation, enjoys all governmental, corporate, and proprietary powers
26 necessary to conduct municipal government, perform municipal functions, and render
27 municipal services, and may exercise any power for municipal purposes, except as
28 expressly prohibited by law; and
29

30 **WHEREAS**, as provided in section 166.021(3), Florida Statutes, the governing
31 body of each municipality in the state has the power to enact legislation concerning any
32 subject matter upon which the state legislature may act, except when expressly
33 prohibited by law; and
34

35 **WHEREAS**, there has been an increase in criminal activity in the Downtown
36 Entertainment Area within the last several months; and
37

38 **WHEREAS**, the Orlando Police Department (“OPD”) and the Executive Director
39 of the City of Orlando Downtown Development Board and Community Redevelopment
40 Agency (the “DDB” and “CRA”) have each reported that the use of sound amplification
41 systems within the public rights-of-way creates excessively loud music and large
42 gatherings that overcrowd the public rights-of-way and create a street party atmosphere;
43 and
44
45

ORDINANCE NO. 2021-39

46 **WHEREAS**, OPD and the DDB and CRA have also reported that the operation of
47 sidewalk cafes at night-time also contribute to overcrowded public rights-of-way and a
48 street party atmosphere; and;

49
50 **WHEREAS**, the street party atmosphere creates a need for additional law
51 enforcement resources; and

52
53 **WHEREAS**, the overcrowded public rights-of-way present a variety of challenges
54 to the public health, safety, and welfare by making it more difficult to provide safe and
55 efficient law enforcement services; and

56
57 **WHEREAS**, Chapter 42, Orlando City Code, generally prohibits the use of sound
58 amplification devices within the public rights-of-way unless such use is for a permitted
59 sidewalk café; and

60
61 **WHEREAS**, the purpose of this ordinance is to provide a method to regulate the
62 hours of sidewalk cafes in the Downtown Entertainment Area and to place a temporary
63 moratorium on the issuance of any new permits, or renewal of permits, for sound
64 amplification devices in the public rights-of-way within the Downtown Entertainment
65 Area, as defined in figure 1 of section 42.09, Figure 1, Orlando City Code in order to
66 minimize overcrowded public rights-of way and to make the Downtown Entertainment
67 Area safer; and

68
69 **WHEREAS**, the City Council of the City of Orlando (the “Orlando City Council”)
70 hereby finds that the temporary moratorium imposed by this ordinance is being imposed
71 for a reasonable duration intended to give the City the time reasonably necessary to
72 investigate the impacts of sound amplification devices in the public rights-of-way of the
73 Downtown Entertainment Area, and if necessary, to promulgate reasonable regulations
74 relating to such devices; and

75
76 **WHEREAS**, the Orlando City Council hereby finds that this ordinance advances
77 an important government purpose by reducing the likelihood of the negative secondary
78 effects of overcrowded public rights-of-way in the Downtown Entertainment Area; and

79
80 **WHEREAS**, the Orlando City Council hereby finds that this ordinance is in the
81 best interest of the public health, safety, and welfare; and

82
83 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
84 **OF ORLANDO, FLORIDA:**

85
86 **SECTION 1. FINDINGS OF FACT.** The foregoing recitals are hereby ratified
87 and confirmed as being true and correct and are hereby made a part of this ordinance.
88

ORDINANCE NO. 2021-39

89 **SECTION 2. TEMPORARY MORATORIUM.** Beginning on the effective date of
90 this ordinance and continuing through January 31, 2022, or sooner as provided by
91 section 3 of this ordinance, a moratorium is hereby imposed on the issuance of any new
92 permits or renewal of permits for sound amplification devices within the public rights-of-
93 way of the Downtown Entertainment Area and in the air space above such public rights-
94 of-way. During the moratorium, no new applications or renewal of permit applications for
95 sound amplification systems in the public rights-of-way or the air space above such
96 public rights-of-way of the Downtown Entertainment Area will be accepted or approved
97 by the City.

98
99 **SECTION 3. EXPIRATION OF THE TEMPORARY MORATORIUM.** The
100 temporary moratorium imposed by section 2 of this ordinance expires as of the earliest
101 of the following occurrences:

- 102
103 a. January 31, 2022; or
104
105 b. the date before January 31, 2022, on which the Orlando City Council
106 takes action to repeal the temporary moratorium, if such action is taken.
107

108 **SECTION 4. STUDY.** City staff in coordination with the DDB and CRA staff is
109 hereby directed to study the impact of sound amplification devices within the public
110 rights-of-way in the Downtown Entertainment Area and determine whether there should
111 be amendments to the Orlando City Code regarding allowing such a use in the public
112 rights-of-way. Staff shall investigate and report its findings of fact on the public health,
113 safety and welfare concerns of sound amplification devices within the public rights-of-
114 way in the Downtown Entertainment Area to the Orlando City Council by no later than
115 January 31, 2022.

116
117 **SECTION 5. CHAPTER 54, ARTICLE I, SECTION 54.28, AMENDED.** Chapter
118 54, Article I, Section 54.28, Code of the City of Orlando, Florida is hereby amended as
119 follows:

120
121 ARTICLE I. – IN GENERAL,

122
123 ****

124 **Sec. 54.28. - Sidewalk Cafés.**

125
126 ****

127
128 (c) *General regulations.* All sidewalk cafés must conform to the following
129 regulations:
130

ORDINANCE NO. 2021-39

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

134
135 2. The area authorized for use as a sidewalk café must be delineated with metal
136 pins placed into and flush with the sidewalk surface. The pins will be provided and
137 installed by the City. The area within the boundary of the pins is the area permitted for
138 use as a sidewalk café. The only time that the sidewalk café may expand outside of the
139 area delineated by the sidewalk pins is when the adjacent street is closed to traffic by
140 the City for a special event. In this event, the sidewalk café area may extend to the back
141 of curb if the permittee posts adequate notice that the sidewalk within the expanded
142 sidewalk café area is closed to pedestrian traffic and if the permittee submitted and
143 received approval of plans depicting the expanded sidewalk café area from the City
144 permitting official.

145
146 3. The sidewalk café must be accessory to a legally existing and conforming
147 principal use eating and drinking establishment.

148
149 4. The sidewalk café must not need a zoning or design variance in order to be
150 implemented according to its approved plan.

151
152 5. The sidewalk café must allow for a clear, straight, unobstructed pedestrian
153 pathway at least five feet wide measured from the sidewalk café area to the sidewalk
154 furniture zone. For purposes of this Code, this clear, unobstructed pedestrian pathway
155 may be known as the "sidewalk clear path," and the area of the sidewalk between the
156 back of curb and the sidewalk clear path where public utilities, landscaping, and furniture
157 are often installed may be known as the "sidewalk furniture zone." For purposes of this
158 section, the sidewalk furniture zone is typically five feet in width measured from the back
159 of curb, but may be less in downtown. At corners, the sidewalk furniture zone is at least
160 five feet in width measured from the back of access ramps, except outside the AC-3A/T
161 zoning district, where it may be as narrow as four feet in width. The permitting official
162 may approve a narrower sidewalk clear path for sidewalk cafés outside the AC-3A/T
163 zoning district if the sidewalk café area is at least six feet from the back of the street
164 curb, five feet from any vertical obstruction in the sidewalk (e.g. utility poles and street
165 furniture), four feet from any horizontal obstruction in the sidewalk (e.g. tree grates,
166 planters, and ramps), and the permitting official finds that the remaining sidewalk clear
167 path is safe and adequate for normal pedestrian and disabled access. The sidewalk café
168 area is prohibited within the sidewalk furniture zone except in mixed-use planned
169 development zoning districts where the sidewalk furniture zone may be adjacent to on-
170 street parking as well as adjacent to the building. In such cases, the permitting official
171 must find that the sidewalk furniture zone provides adequate area to safely
172 accommodate the proposed sidewalk café furniture and pedestrian movements through
173 the café area.

174

ORDINANCE NO. 2021-39

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

178
179 7. Sidewalk cafés must be built and maintained in accordance with their
180 approved plans.

181
182 8. Sidewalk café permittees must have the sidewalk café area, the adjacent
183 sidewalk clear path, and the adjacent sidewalk furniture zone pressure washed with a
184 commercial-grade pressure washer at least monthly. The permittee must maintain
185 records of each pressure washing and must provide these records to the City upon
186 request. Satisfying this requirement does not absolve the permittee from otherwise
187 keeping the sidewalk café area, the adjacent sidewalk clear path, and the adjacent
188 sidewalk furniture zone in a clean and safe condition at all times.

189
190 9. The design, appearance, and dimensions of all furniture within the sidewalk
191 café area is subject to review and approval by minor certificate of appearance approval
192 or minor certificate of appropriateness, if either is required by Code, or by the
193 appearance review official if outside the jurisdiction of the Appearance Review Board
194 and the Historic Preservation Board.

195
196 10. Signs are prohibited within the sidewalk café area except for menu boards
197 approved pursuant to section 64.249 of this Code and onsite signs printed on approved
198 café umbrellas. Signs on café umbrellas are exempt from maximum sign area
199 restrictions. Menu boards associated with sidewalk cafés must be kept out of the
200 sidewalk clear path, but may be placed within the sidewalk furniture zone or the sidewalk
201 café area.

202
203 11. Outdoor speakers may be approved for use in the sidewalk café area. The
204 design, appearance, dimensions, and directional orientation of speakers are subject to
205 review and approval by minor certificate of appearance approval or minor certificate of
206 appropriateness, if either is required by Code, or by the appearance review official if
207 outside the jurisdiction of the Appearance Review Board and the Historic Preservation
208 Board. Sound from outdoor speakers is subject to the City's noise ordinance.

209
210 12. All sidewalk cafés must include tables and chairs. At all times the number
211 and location of the tables and chairs must be maintained in accordance with the
212 sidewalk cafes' approved site plan. Assembly occupancy is prohibited within the
213 sidewalk café area.

214
215 13. Hours of operation for sidewalk cafés may be set forth by Resolution of City
216 Council.

217
218 ****

ORDINANCE NO. 2021-39

219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265

SECTION 6. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 7. SCRIVENER'S ERRORS. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

SECTION 8. EFFECTIVE DATE. This ordinance takes effect immediately upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2021.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of _____, 2021.

DONE, THE SECOND READING, AND HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2021.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

ORDINANCE NO. 2021-39

266 APPROVED AS TO FORM AND LEGALITY
267 FOR THE USE AND RELIANCE OF THE
268 CITY OF ORLANDO, FLORIDA:

269 _____
270
271 Assistant City Attorney

272 _____
273
274 Print Name

275
276
277

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