

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2025-22**

AN ORDINANCE DELETING ARTICLE II "SIDEWALK CAFES", CHAPTER 30, OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, AND MOVING THESE PROVISIONS TO CHAPTER 90 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES" OF SAID CODE; CREATING A NEW DIVISION II OF ARTICLE II WITHIN CHAPTER 90; SAID DIVISION TITLED "SIDEWALK AMENITIES IN THE DOWNTOWN CORE", WHICH COMPRISES REGULATIONS REGARDING THE USE AND ENCROACHMENT OF AMENITIES ONTO SIDEWALKS WITHIN THE CITY'S DOWNTOWN CORE; PROVIDING FOR A PENALTY FOR VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the City of Kerrville, Texas, currently allows the use of portions of public sidewalks in parts of downtown for sidewalk cafes and other uses; and

WHEREAS, City Council seeks to continue to ensure safe and accessible pedestrian pathways through downtown; and

WHEREAS, City Council seeks to ensure public investments add and maintain value for the citizenry without undue damage by private interests or private use; and

WHEREAS, City Council seeks to require a reasonable administrative fee in order to recoup the cost of reviewing and administering the use of public sidewalks; and

WHEREAS, the City's Main Street Board has recommended approval of the proposed regulations and fee; and

WHEREAS, City Council, pursuant to Section 316.003 of the Texas Transportation Code, finds that sidewalk amenities to be authorized pursuant to this Ordinance may not be established unless the City determines that the amenity: (1) will not be located on, extend onto, or intrude on a roadway or part of a sidewalk needed for pedestrian use; (2) will not create a hazardous condition or obstruction of vehicular or pedestrian travel on a City street; and (3) the design

and location of the amenity includes reasonable consideration to minimize potential injury or interference to the public in the use of a City right-of-way; and

WHEREAS, City Council also finds that the code amendments regulating the use of public sidewalks for sidewalk cafes and other uses by private entities is reasonable and prudent in light of the desire to ensure adequate pedestrian access within the downtown core and complies with the provisions set out in Chapter 316 of the Texas Transportation Code; and

WHEREAS, the regulations adopted here create an exception to the regulations found within Chapter 90 of the City's Code of Ordinances, to include Sections 90-32 and 90-37; and

WHEREAS, City Council finds it to be in the public interest to adopt the amendments to its Code of Ordinances as provided herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Article II "Sidewalk Cafes" of Chapter 30 "Businesses," of the Code of Ordinances of the City of Kerrville, Texas ("Code"), is deleted.

SECTION TWO. Chapter 90 of the Code is amended by creating a new division within Article II "Streets and Sidewalks", such new division is indicated as follows with new language that is underlined (added):

"Chapter 90 - STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

ARTICLE II. - STREETS AND SIDEWALKS

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DIVISION 2. - SIDEWALK AMENITIES IN THE DOWNTOWN CORE.

Sec. 90-40. – Prohibited obstructions.

It is unlawful for any person to construct, install, or place any fencing, barriers, or other objects, to include tables, chairs, umbrellas, benches, planters, clothing, racks, or signs on the sidewalk or upon any street, alley, or the City's right-of-way area between the curb line and the property line of any business, commercial, or residential property within the downtown core without first securing a permit from the City. Such prohibition includes objects or the extension of buildings or structures that encroach above this area. This section

provides an exception to the prohibitions provided for in Sections 90-32 and 90-37 of this Code. In addition, all encroachments permanently installed within the right-of-way area prior to November 1, 2025, shall be allowed to remain but shall be maintained according to the provisions of this chapter and the current adopted building codes. Such encroachments include poles, columns, porticos, and porches. Where any grandfathered encroachment is removed or destroyed, any replacement shall comply with this chapter.

Sec. 90-41. – Definitions.

Applicant means the owner of fee title to a real property that adjoins the public right-of-way area within the downtown core, or a person or entity who leases such real property and acts with the express written consent of the fee title owner, either of whom makes an application for a sidewalk amenity permit in accordance with this division.

City manager means the City Manager or designee.

City street means the entire width of a way held by the City in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated state highway or road or a designated county road.

Code means the City's Code of Ordinances.

Downtown core means the same term defined by the City's Zoning Code (Ch. 60, Code of Ordinances) which defines a specific area within the City.

Permit fee means the fee charged for the use of the right-of-way area, such fee specified within the City's fee schedule.

Permit holder means an applicant to whom the City issues a permit under this division.

Right-of-way area means land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes, and includes the sidewalk.

Roadway means the portion of a City street that is improved, designed, or ordinarily used for vehicular travel. The term does not include a curb, berm, or shoulder.

Sidewalk means the portion of a City street between the curb line or lateral line of a roadway and the adjacent property line that is improved and designed for or is ordinarily used for pedestrian travel.

Sidewalk amenity(s) means any object placed within a sidewalk within the downtown core to include fencing, barriers, or other objects, such as tables, chairs, umbrellas, benches, planters, clothing, racks, or signs.

Sec. 90-42. – Sidewalk amenities within the downtown core; permits.

(a) An applicant may apply to the City Manager to obtain an sidewalk amenity permit to place and use a sidewalk amenity in front of property they own, control, or occupy. The City Manager may approve or deny a permit in accordance with this division. A permit is personal to the applicant, is not transferrable, and once the applicant pays the fee, such fee is not refundable. In addition, the permit is a one-time permit and subject to revocation as provided below, may remain valid until such time that a change occurs in the ownership or business.

(b) An application must be made in writing to the City Manager on a form provided by the City. Each application must include the following:

(1) Proof of ownership or current lease agreement for the property adjacent to the sidewalk where the sidewalk amenity will be placed;

(2) General description of the proposed sidewalk amenity; and

(3) Permit fee.

(c) As part of the consideration of whether or not to issue a permit, the City Manager must find that the sidewalk amenity:

(1) will not be located on, extend onto, or intrude on the roadway or any part of the sidewalk needed for pedestrian use so as to interfere with such use;

(2) will not create a hazardous or dangerous condition or obstruction of vehicular or pedestrian travel on the City street; and

(3) its design and location includes all reasonable planning to minimize potential injury or interference to the public in the use of the City street.

Sec. 90-43. – Operational requirements for sidewalk amenities.

Upon approval of a permit for sidewalk amenity, the applicant, as a permit holder, shall comply with the following:

(1) sidewalk amenities must be located and remain in front of the permit holder's property.

(2) maintain the sidewalk adjacent to the permitted use free of obstructions and clean the permitted area and adjacent sidewalk area of spills, debris, and litter. A minimum clear path of travel of five feet (5') in width shall be maintained on the sidewalk from any entrance or doorway. The clear path of travel may meander to avoid obstructions and sidewalk amenities but must remain continuous and clearly identifiable to pedestrians as the walkway. All operations and sidewalk amenities shall be contained within the boundaries approved by the permit at all times. No sidewalk amenities may be placed within five feet (5') of accessibility ramps connecting street crosswalks to sidewalks.

(3) maintain at all times the sidewalk adjacent to the permitted sidewalk amenities in good repair pursuant to Section 90-33 of this Code and in compliance with the Americans with Disabilities Act (ADA).

(4) sidewalk amenities may not be installed or placed in a way that will negatively impact the public, utilities, or any person who has the right to use the right-of-way area. Thus, distances between sidewalk amenities and utility lines must comply with clearances from structures to utility lines required by the City's building codes.

(5) sidewalk amenities must be free standing and not drilled into or otherwise secured to a sidewalk, tree, lamp post, or any other infrastructure, whether during or after operating hours of an establishment.

(6) umbrellas, canopies, and plants within planters must be contained within the area of the sidewalk in front of the permit holder's property and when extended shall measure at least seven feet (7') above the surface of the sidewalk. No part of an umbrella or canopy may exceed ten feet (10') in height above the sidewalk. No advertising, signage, or wording is permitted on umbrellas with the exception of the name or logo for the business or use connected with the applicant for the placement of the umbrella or canopy.

(7) a permit holder shall hold the City harmless for any theft, damage, or destruction of property of the holder placed within a sidewalk. Prior to the commencement of sidewalk use, the permit holder shall furnish a copy of all required endorsements and an original completed certificate(s) of insurance to the City Manager, which shall be clearly labeled with the

holder's business name and address, and which names the City as an additional insured and a waiver of subrogation. The policy amount will be as specified on the application and subject to other requirements as specified on the application. The permit holder shall provide the City with an original completed certificate(s) of insurance annually. The updated certificate(s) shall be submitted within 30 days of the expiration. Failure to provide an updated certificate may result in the City Manager revoking the permit and seeking removal of the sidewalk amenities.

(8) a permit holder shall comply with all applicable local, state, and federal rules and regulations.

(9) the City Manager may revoke a permit at any time where it is determined that the permit holder is violating these regulations such that there is an immediate risk to the public's health and safety. Following revocation, the City Manager shall provide notice to the permit holder and work with the holder to provide for immediate removal of the sidewalk amenities. Where the permit holder refuses or fails to remove the sidewalk amenities in a reasonable amount of time as solely determined by the City Manager, the City Manager may seek removal of the sidewalk amenities.

(10) If the City Manager determines that a sidewalk amenity must be removed due to the City's use, including conflicts with public utilities, construction within the right-of-way, or any other public purpose, the City Manager shall provide the permit holder with at least seven (7) days' written notice to remove the amenity. After that period, the City may remove the amenity without further notice or liability."

SECTION FOUR. The City Secretary is authorized and directed to submit this amendment to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the penalty provision contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

SECTION SIX. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same

subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances in direct conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SEVEN. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION EIGHT. In accordance with Section 3.07 of the City Charter and Section 52.013(a) of the Texas Local Government Code, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.


SECTION NINE. Following passage and approval upon second reading, this Ordinance shall become effective on January 1, 2026.

PASSED AND APPROVED ON FIRST READING, this the 18 day of November, A.D., 2025.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 09 day of DECEMBER, A.D., 2025.


Joe Herring, Jr., Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:


Shelley McElhannon, City Secretary