

## ORDINANCE NO. 1851

AN ORDINANCE TO AMEND SECTION 70-6 OF ORDINANCE NUMBER 1395 TO PROVIDE FOR THE PROCEDURE FOR PERMITTING PERSONS TO USE A PART OF THE SIDEWALKS FOR THEIR OWN PURPOSE, TO AUTHORIZE THE CITY MANAGER TO DEVELOP A SIDEWALK USE PERMIT APPLICATION, TO PROVIDE FOR PERMIT FEES AND PERMIT DURATION, TO PROVIDE A SCHEDULE OF FINES FOR VIOLATION OF THE PERMIT, AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, the City of Talladega is the owner of the public sidewalks located within the City of Talladega; and,

WHEREAS, the public sidewalks located within the City of Talladega are designated for the use of the pedestrian public; and,

WHEREAS, occasions arise when persons desire to use portions of the public sidewalk for their own purpose, and such purpose may interfere with the use of the sidewalk by the pedestrian public; and,

WHEREAS, it is the intent of the City of Talladega, Alabama, in the interest of protecting the health, morals, safety and general welfare of the people of the City of Talladega, that a procedure be established to allow for private use of a portion of the public sidewalk for private purposes;

WHEREAS, Section 70-6 of Ordinance Number 1395 provides generally for a permitting process, but it lacks specificity and is due to be amended by the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF TALLADEGA, ALABAMA, AS FOLLOWS:

Section 70-6 of Ordinance Number 1395 adopted on the 5<sup>th</sup> day of August, 1996 by the City Council of the City of Talladega, Alabama, is hereby amended as of the date of the adoption of this Ordinance to read as follows:

Section 70-6. Application for permit to maintain obstructions; information required from applicant; duration and fees for permit; fines and penalties for violation of permit; and requirements for permit.

(A) The term "sidewalk" as used in this Ordinance is defined as that space from the private property line to the curb line which is hereby set apart for the use of pedestrians.

(B) It shall be unlawful for any person, firm or corporation to erect, build, deposit, place or maintain any awning, billboard, table, platform, or any other material or object obstructing the free and uninterrupted passage of pedestrians, or any stairway or stand or temporary structure of any kind or description in, or along, or upon the sidewalks of the City of Talladega without first obtaining a Sidewalk Use Permit as hereinafter provided.

(C) The City Manager of the City of Talladega, or City Manager designee, is authorized and directed to create a Sidewalk Use Permit Application for use in the process of

granting a permit to a private person to use the public sidewalk for private purposes. The Sidewalk Use Permit Application shall include the following information:

(1) The area of the sidewalk to be used, the proposed use, the requested time of use, the duration of use, the property address adjoining the public sidewalk, the current zoning of the property address, a detailed description of the requested use, the requested start date of the use, the requested completion date of the use, the name, address and telephone number of the property owner, the name, address and telephone number of the requesting party, and such other information as the City Manager deems necessary to properly identify the proposed use.

(2) The property owner/requesting party shall provide the following with the Sidewalk Use Permit Application:

(i) a vicinity map showing a site plan (showing tables, chairs, parking, displays, garbage containers, signage and as built existing conditions) to scale with dimensions; specifications for chairs, tables, bollards, rails, trash cans, signs, and all fixtures, with material and weights noted; separation barrier including railing layout, specifications;

(ii) a copy of the owner's liability insurance certificate; and

(iii) such other matters as the City Manager shall deem necessary to be included in the application.

(3) The duration of the Sidewalk Use Permit shall be one calendar year only.

(3) One permit shall be issued for each storefront, property frontage or business.

(4) The permit application fee for all permits is \$25.00.

(5) The following fines shall apply for any violation of the requirements of any Sidewalk Use Permit:

(i) For obstruction of traffic patterns the fine for a first violation is \$100.00; the fine for a second violation is \$150.00; the fine for a third violation is \$250.00; the fine for a fourth violation is revocation of the Sidewalk Use Permit.

(ii) For obstruction of pedestrian patterns the fine for a first violation is \$100.00; the fine for a second violation is \$150.00; the fine for a third violation is \$250.00; the fine for a fourth violation is revocation of the Sidewalk Use Permit.

(iii) For unsanitary conditions and trash on the public sidewalk the fine for a first violation is \$50.00; the fine for a second violation is \$100.00; the fine for a third violation is \$200.00; the fine for a fourth violation is revocation of the Sidewalk Use Permit.

(iv) For failure to remove storm required items the fine for a first violation is \$50.00; the fine for a second violation is \$100.00; the fine for a third violation is \$200.00; the fine for a fourth violation is revocation of the Sidewalk Use Permit.

(v) If a permit is revoked, another permit will not be issued to the same permittee at the same site described in the Sidewalk Use Permit.

(6) A permit application for a Sidewalk Use Permit and the permittee granted such Sidewalk Use Permit shall adhere to the following requirements:

(i) No Point of Sales allowed on sidewalks.

(ii) No waiter service, or sale of merchandise allowed on sidewalks.

(iii) All seating, furniture, tables and chairs shall be of substantial weight or design to prevent movement or overturning from wind. No plastic, rubber, or breakable materials allowed.

(iv) All umbrellas shall be a single color with no logos. Umbrellas must be removed during heavy rain events, high winds, and after closing.

(v) No alterations may be made to the sidewalk/hardscape without written permission of the City of Talladega.

(vi) The area shall be free and clean of garbage, which shall be removed daily or as needed to prevent trash container overflow or spillage onto the pedestrian pathway or storm sewer system. Any food service permittee shall empty the municipal garbage receptacle located within the permit area daily.

(vii) The sidewalk/hardscape area shall be swept daily and washed as needed, at least weekly, to prevent slippery substances and blight on the sidewalk/hardscape.

(viii) At no time shall public safety, adjacent right-of-way, or adjacent properties be impeded or obstructed.

(xiv) Utility poles, meters or other structure shall not be utilized for use of the facility. Access should be available to each of these items by the respective utility company.

(x) There shall be a minimum of 5 feet of unobstructed pathway on the sidewalk.

(xi) Any violation shall be addressed immediately upon notification. Failure to correct the violation within one hour will result in a supplemental violation being issued. Each notice of violation shall be a separate offense.

(xii) Food Service Facilities permittees are allowed only one menu board per facility.

(xiii) No political, racial, obscene, or demeaning items shall be allowed on the sidewalk. Failure to adhere to this requirement will be cause for immediate permit termination.

(xiv) All permit fees are nonrefundable.

(xv) Permits are not transferable.

(xvi) All permits shall be kept in visible site inside the facility for review by the City of Talladega enforcement staff.

(xvii) Areas may be denied for use if pre-existing conditions create negative impacts on safety, residents or traffic.

(xviii) All uses shall comply with any applicable City of Talladega Ordinances or Permits for Alcoholic Beverages, Business Licenses, or Terms of Use.

(xix) No logos are allowed on any type of furniture placed on the sidewalk.

(xx) No glass containers are allowed in the permitted area.

(xxi) Plants and planters shall be maintained in good condition.

(xxii) No livestock or animals are allowed on display within the permitted area.

#### (D) PENALTIES.

The violation of this Ordinance shall constitute a criminal misdemeanor. Any person who shall be convicted of violating any provision of this Ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00), nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the City Jail for not less than One Hundred Eighty (180) days, or both at the discretion of the Court trying the case. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such hereunder.

#### (E) SEVERABILITY.

All sections of this Ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

(F) Upon adoption of this Ordinance and passage and publication, as provided by law, Ordinance 1395, Section 70-6 is amended.

(G) This Ordinance shall take effective immediately upon its passage and publication as provided by law.

Adopted and approved this the 9<sup>th</sup> day of September, 2019.

Council President Horace Patterson  
Councilman Jarvis Elston  
Councilman Ricky Simpson  
Councilman Gerald Cooper  
City Manager Elizabeth Cheeks

Approved and attested to: Joanna Medlen, Acting City Clerk