

ORDINANCE NO. C-15-23

AN ORDINANCE AMENDING ARTICLE VII, SIDEWALK CAFÉS, OF CHAPTER 25, STREETS AND SIDEWALKS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO PROVIDE ADDITIONAL PROVISIONS AND REQUIREMENTS GOVERNING THE LOCATION AND OPERATION OF A SIDEWALK CAFÉ; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article VII, Sidewalk Cafés, Chapter 25, Streets and Sidewalks, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

ARTICLE VII. - SIDEWALK CAFÉS

Sec. 25-181. Permit required.

It is unlawful to operate ~~Operating~~ a sidewalk café on ~~city sidewalks~~ within the city ~~shall be unlawful~~ without possessing a valid permit ~~from~~ issued by the building Department of Sustainable Development and ~~paying the fee therefor to the director of building or his designee~~ in accordance with the provisions and requirements of this article. A sidewalk café, permitted and operated in accordance with this section ~~shall~~ is not be an obstruction of a sidewalk as provided in a violation of section 25-4 of the Code.

Sec. 25-182. Definitions.

The following words when used in this article shall, for the purposes of this article, have the following meanings:

Director. The director of the ~~building and zoning~~ Department of Sustainable Development.

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North Fork of the New River. The waterway described as that portion of the North Fork of the New River (C-12) canal lying in Sections 10 and 11 of Township 50 South, Range 42 East

Permittee. The recipient of a sidewalk café permit under the terms and provisions of this article.

Sidewalk. That portion of property lying adjacent to or within the public right-of-way, paved and used for pedestrian travel.

Sidewalk area. An area of sidewalk for which a permit is being sought or has been issued for use as a sidewalk café.

Sidewalk café. The placing, locating or permitting of the placing or locating of chairs, and tables, umbrellas, or sidewalk benches to operate as or in conjunction with a place of business, as defined in Section 47-35.1 of the ULDR within the a sidewalk area adjacent to a business licensed to operate as a restaurant as defined in section 47-2 of the Code.

Sec. 25-183. Permit requirements and fee.

(a) A permit for a sidewalk café shall be issued only to the owner of a validly licensed and operating restaurant place of business, as defined in section 47-35.1 of the ULDR, who wishes to provide tables and chairs on the sidewalk adjacent to their restaurant place of business or along the North Fork of the New River as provided in Section 25-187.

(b) The application fee and annual permit fee for establishing or maintaining a sidewalk café shall be determined by the city commission and set forth in a resolution. Such fees are to be paid to the director of the Department of Sustainable Development or his or her designee prior to the issuance of a sidewalk café permit. Sidewalk café permits are only valid when the fees, as provided in this section, are paid and current for the period of operation.

Sec. 25-184. Permit application.

(a) Application for a permit to operate a sidewalk café shall be made at the Department of Sustainable Development on a form provided by the director. Such application shall include, but not be limited to the following information:

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- (1) Name and address of the applicant;
- (2) The written consent of the property owner;
- (3) A copy of the current business tax receipt for operating a ~~restaurant~~ place of business adjacent to the sidewalk area which is the subject of the application;
- (4) A copy of the valid certificate of occupancy for the building adjacent to the sidewalk area which is the subject of the application where the ~~principal restaurant~~ place of business is operated;
- (5) A copy of current liability insurance;
- (6) A drawing (minimum scale of one-fourth (¼) inch equals one (1) foot) showing the layout and dimensions of the existing sidewalk area and adjacent private property including the structures located thereon, proposed location, size and number of tables, chairs, umbrellas, location of doorways, location of trees, parking meters, bus shelters, sidewalk benches, trash receptacles, landscaping, utility boxes, poles, guidelines and any other sidewalk obstruction either existing or proposed within the sidewalk area;
- (7) Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects relating to the sidewalk café;
- (8) A plan for the maintenance and cleaning of: the sidewalk area where the tables and chairs are permitted to be located; the tables and chairs; any trash or food on or about the tables and chairs or sidewalk; and the disposal of any trash or debris generated from the operation of the sidewalk café;
- (9) Any permits or approvals required from any other governmental agency necessary to operate a sidewalk café; and
- (10) Applications shall be accompanied by a non-refundable application fee which shall be credited toward the first year permit fee, should the application be approved.

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Sec. 25-185. Application review.

(a) A completed application shall be reviewed by the following departments: public works, building, planning, fire, police, finance and such other departments as directed by the city manager in accordance with the standards and criteria for application review provided in this section.

(b) Within thirty (30) days of receipt of a completed application, the director shall issue a letter of intent to approve or deny the permit.

Sec. 25-186. - Standards and criteria for application review.

The following standards and criteria shall be used in reviewing the application:

- (1) Sidewalk cafés shall only be allowed in zoning districts where sidewalk cafés are specified as a permitted or accessory use.
- (2) The sidewalk café area shall be required to meet the yard and buffer requirements applicable to principal structures located in the zoning district where the sidewalk café is proposed when the applicant's ~~restaurant~~ place of business is abutting residential property or separated from residential property by a public right-of-way that is twenty (20) feet or less in width or is located in a ~~B-1-A~~ B-1 zoned district. As used in this subsection (2), residential property shall be defined in accordance with section 47-35 of the Code.
- (3) Sidewalk cafés are restricted to the sidewalk area abutting the boundary lines of the property on which the ~~restaurant~~ place of business owned by the applicant is located or along the North Fork of the New River in accordance with Section 25-187.
- (4) Permits will not be issued where the tables and chairs would be placed within five (5) feet of bus stops, taxi stands, site triangles or other structures or areas determined by the director to require clearance for the public.

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- (5) No tables or chairs will be permitted within five (5) feet of a pedestrian crosswalk.
- (6) Sidewalk cafés shall be located as follows:
 - a. Where public parking exists between the sidewalk area proposed for use and the portion of the right-of-way used for vehicular travel, a sidewalk café shall be located in such a manner that a minimum five-foot wide clear pedestrian path on the sidewalk is maintained at all times.
 - b. Where no public parking exists as described in subparagraph (1), a minimum five-foot wide clear pedestrian path between the edge of the sidewalk closest to the right-of-way used for vehicular travel and the sidewalk café shall be maintained at all times.
 - c. In areas of congested pedestrian activity, the director is authorized to require a wider pedestrian path than that provided herein as circumstances dictate.
- (7) No objects shall be permitted around the perimeter of a sidewalk area occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the use of the sidewalk by the general public.
- (8) Tables, chairs, umbrellas and any other objects provided as part of the sidewalk café shall be of quality, design, materials and workmanship; both to ensure the safety and convenience of users, and to be compatible with the uses in the immediate vicinity of the proposed sidewalk café.

Sec. 25-187. New River Sidewalk Café Permit.

(a) Notwithstanding the other provisions of this article, a sidewalk café may be placed within the public lands, ~~right-of-way~~ rights-of-way or both located along the New River subject to the following:

- (1) A sidewalk café may be located in the sidewalk area within the public lands, ~~right-of-way~~ rights-of-way or both adjacent to the water's edge of the North Fork of the

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New River.

- (2) A sidewalk café located within the public right-of-way along the North Fork of the New River may be placed in the public lands, ~~right-of-way~~ rights-of-way or both without the need to be located directly adjacent to the associated place of business.
- (3) When not located directly adjacent to the associated place of business the sidewalk café location shall be reviewed by the City Engineer to address life safety issues. The City Engineer shall have the authority to require site improvements within and in the general vicinity of the sidewalk area to address life safety issues. These site improvements may include, but shall not be limited to improved pedestrian access points, handicap accessibility, removal and/or relocation of landscaping, increased separation requirements, reduced sidewalk café area or relocation of the proposed sidewalk café area. All site improvements shall be installed at the sole expense of the applicant.
- (4) A sidewalk café may be placed directly adjacent to the water's edge subject to the installation of safety barriers as approved by the Parks and Recreation Department of the City of Fort Lauderdale and solely at the expense of the applicant. Safety barriers shall be installed so as to exceed the width of the proposed sidewalk café along the water's edge by a minimum of five (5) feet at each end and shall maintain a consistent and unbroken barrier for the entire length. Types of safety barriers shall include, but shall not be limited to the following:
- a. Mounted bollards located at intervals as required by the City Engineer with a safety chain attached between each bollard.
 - b. Weighted planter boxes with appropriate landscape material.
- (5) The City may require the applicant to make additional improvements at the applicant's expense to address the function of the sidewalk café, such as but not limited to waste and recycling receptacles, additional landscape material, removal of obstructions, or any other improvement as required by the Parks and Recreation Department.

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- (6) Sidewalk cafés shall maintain a minimum distance of five (5) feet from any equipment located within the public right-of-way.
- (7) Sidewalk cafés shall only consist of tables, ~~and~~ chairs, umbrellas, or sidewalk benches. There shall be no signage, restaurant side stations/wait stations, or any other type of equipment or furniture placed within the right-of-way other than approved tables and chairs.
- (8) Chairs used in conjunction with a sidewalk café shall not be oriented with the back of the chair towards the water's edge.
- (9) Sidewalk cafés ~~shall maintain~~ shall be designed and set up in such a manner to ensure a clear and unobstructed pedestrian area with a minimum width of ~~ten (10)~~ eight (8) feet of open pedestrian area as measured perpendicular to the water's edge.
- (10) Applicant is responsible for maintaining the sidewalk café area free of litter and is required to keep the area associated with the sidewalk café neat and free of debris.

(b) In addition to the review criteria as outlined in section 25-186 sidewalk cafés located along the North Fork of the New River shall be subject to review and approval by the Parks and Recreation Department.

(c) Sidewalk café permits granted subject to the requirements of section 28-187 shall be subject to all other requirements of Article VII sidewalk cafés. Where Section 25-187 conflicts with any other section of Article VII sidewalk cafés, the requirements of Section 25-187 shall govern.

Sec. ~~25-187~~ 25-188. Liability and insurance.

(a) Prior to the issuance of a permit, the applicant shall furnish the director with a signed statement that the permittee shall hold harmless the city, its officers and employees and shall indemnify the city, its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.

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(b) Permittee shall furnish and maintain such public liability, food products liability and property damage insurance for the benefit of city insuring and indemnifying city from all claims and damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) for bodily injury and property damage respectively per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insureds the city, its officers and employees, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the permit period without forty-five (45) days' written notice to the risk management division of the department of finance and the director at the address shown in the permit.

Sec. ~~25-188~~ 25-189. Form and conditions of permit.

The permits shall be issued on a form provided by the ~~building department~~ Department of Sustainable Development. In addition to naming the permittee and any other information deemed appropriate by the ~~building department~~ Department of Sustainable Development, the permit shall contain the following conditions:

- (1) Each permit shall be effective for one (1) year subject to annual renewal.
- (2) The permit shall be personal to the permittee only and shall not be transferable in any manner.
- (3) The permit may be suspended by the director when an ordinance, ~~or resolution,~~ or motion is adopted by the city commission providing for an event necessitating that the sidewalk be clear for a period of time.
- (4) The director or city engineer may require the temporary removal of sidewalk cafes when street, sidewalk or utility repairs necessitate such action.
- (5) Tables, chairs, umbrellas and any other objects provided in connection with a sidewalk café shall be removed from the sidewalk area when the permittee's ~~restaurant~~ place of business is closed to the public.
- (6) If found to be necessary for the protection of the health, safety and welfare of the public, the department of public works, police and fire department or emergency

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service providers may require the applicant to immediately remove or relocate all or parts of the sidewalk café and if necessary the city may remove or relocate same in emergency situations.

- (7) The city and its officers and employees shall not be responsible for sidewalk café components relocated during emergencies.
- (8) The permit shall be specifically limited to the area shown on the exhibit attached to and made a part of the permit.
- (9) The permittee shall take such actions necessary to ensure its use of the sidewalk in no way interferes with sidewalk users or limits their passage.
- (10) Tables, chairs, umbrellas and any other objects provided within a sidewalk café shall be maintained in a clean and attractive appearance, shall be in good repair at all times and shall be maintained in accordance with the plan submitted by the applicant as provided in section 25-184 and approved by the director.
- (11) The sidewalk area covered by the permit shall be maintained in a neat and orderly appearance at all times and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day in compliance with the plan submitted in accordance with section 25-184 and approved by the director.
- (12) The serving and consumption of alcoholic beverages as part of the operation of a sidewalk café shall be permitted subject to applicable regulations of other governmental entities.
- (13) Awnings shall be permitted over the sidewalk café area during the operation of the sidewalk café if permitted in accordance with the provisions of the Code.
- (14) No advertising signs or business identification signs shall be permitted on the sidewalk.
- (15) No tables and chairs nor any other parts of sidewalk cafés shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or

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sidewalk within or near the permitted area.

- (16) No tables, chairs, umbrellas or any part of a sidewalk cafe, except an awning permitted in accordance with the Code, shall be permitted to encroach within the five-foot wide clear area above the pedestrian path provided in accordance with section 25-186.
- (17) Permittee shall be required to comply with any regulation relating to noise in the sidewalk area.
- (18) The permit covers only the public sidewalk. Tables and chairs on private property are governed by other applicable regulations.
- (19) The permittee shall notify the director in writing when operation of the sidewalk café begins. Said notice shall be delivered to the director within twenty-four (24) hours of such commencement.

Sec. ~~25-189~~ 25-190. Denial, revocation or suspension of permit; removal and storage fees; emergencies.

(a) The director may deny, revoke or suspend a permit for any sidewalk café authorized in the city if it is found that:

- (1) Any required business or health permit has been suspended, revoked or cancelled;
- (2) The permittee does not have the insurance which is correct and effective in the minimum amount described in section ~~25-187~~ 25-188;
- (3) Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of a sidewalk café. Such decision shall be based upon findings of the director that the minimum five-foot pedestrian path is insufficient under existing circumstances and represents a danger [to] the health, safety or general welfare of pedestrians or vehicular traffic;

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- (4) The permittee has failed to correct violations of this article or conditions of his permit within three (3) days of receipt of the director's notice of same delivered in writing to the permittee by registered mail, return receipt requested to the last address provided by the permittee to city; or
- (5) Tables, chairs and other vestiges of the sidewalk café may be removed by the building department and a reasonable fee charged for labor, transportation and storage should the permittee fail to remove said items within thirty-six (36) hours of receipt of the director's final notice to do so for any reason provided for under this article.

(b) Upon denial or revocation, the director shall give notice of such action to the applicant or the permittee in writing stating the action which has been taken and the reason therefor. If the action of the director is based on subsection (a)(2) or (3) of this section, the action shall be effective twenty-four (24) hours after the date of mailing of notice to permittee. Otherwise, such notice shall become effective within ten (10) days after the date of mailing of notice to permittee unless appealed to the city commission.

Sec. ~~25-190~~ 25-191. Appeals.

(a) Appeal shall be initiated within ten (10) days of the effective date of the denial or revocation of permit by filing a written notice of appeal with the city manager.

(b) The city manager shall place the appeal on the next available regular city commission agenda. At the hearing upon appeal, the city commission shall hear and determine the appeal, and the decision of the city commission shall be final and effective immediately.

(c) The filing of a notice of appeal by a permittee shall not stay an order by the director to remove a sidewalk café or parts thereof. Vestiges of the sidewalk cafe shall be removed immediately as set out in this article, pending disposition of the appeal and final decision of the city commission.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

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SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this the 2nd day of June, 2015.

PASSED SECOND READING this the _____ day of _____, 2015.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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