

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 124 OF THE CODE OF ORDINANCES, ENTITLED "SIDEWALK CAFES", TO REVISE THE REGULATIONS RELATING TO SIDEWALK CAFES; AND PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 124 of the Code of Ordinances establishes permanent sidewalk café zones within the City which includes the Beach and Downtown Districts of the CRA, as well as the standards and criteria for such sidewalk cafes; and

WHEREAS, the current regulations have not been revised since 2010, and it has been determined by staff that due to certain changes within the sidewalk café zones as well as new requirements submitted by the Florida Department of Transportation, it is necessary to revise the current regulations; and

WHEREAS, the Chief Development Officer, City Engineer and the Executive Director of CRA recommend that the following revisions to Chapter 124 be adopted by the City Commission;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Chapter 124 of the Code of Ordinances entitled "Restaurants; Sidewalk Cafes" is hereby amended as follows:

TITLE XI. BUSINESS REGULATIONS

* * *

CHAPTER 124: SIDEWALK CAFES

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Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions.

§124.03 PERMIT REQUIRED.

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(C) Permits shall be issued only to restaurants or retail tobacco shops that wish to provide chairs, benches, and/or tables on the sidewalk(s). ~~Cafés which are located in a state right-of-way require approval by the Florida Department of Transportation. Said approval shall be provided for the Sidewalk Café.~~

§124.04 PERMIT APPLICATION.

* * *

(C) Applications shall be reviewed by the following departments: Risk Management, Finance, as well as the Engineering and Planning Divisions of the Department of ~~and~~ Development Services, and the Executive Director of the Community Redevelopment Agency or his/her designee.

§124.05 STANDARDS AND CRITERIA FOR APPLICATION REVIEW.

* * *

(G) Tables, chairs, umbrellas and any other objects associated with the Sidewalk Café shall be of quality, design, materials and workmanship, both to ensure the safety and convenience of users, and to enhance the visual and aesthetic quality of the urban environment. Design, materials and colors shall be sympathetic and harmonious with the urban environment and compliment the design and paint colors on the building, as well as adhere to the requirements set forth in (K) below.

* * *

(I) Pass-through windows, take out windows or similar types of windows are ~~not permitted~~ when adjacent to a 7' clear sidewalk path. The Sidewalk Café table area required adjacent to a pass-through window shall be a minimum of 2' in depth. Service counters shall be flush with exterior walls if they would otherwise encroach into the public right-of-way.

* * *

(K) All design guidelines set forth in the Design Review Manual shall be adhered to and all designs shall be reviewed by the Planning Division of the Department of Planning and Development Services and the CRA. For Sidewalk Cafés which are located in a State right-of-way and require Florida Department of Transportation consent, the following design standards must also be adhered to:

(1) Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System – Topic No. 625-010-003 (Department Procedure);

(2) Plans Preparation Manual (PPM) – Topic No. 625-000-007 (Department Procedure); and

(3) Facilities Access for Persons with Disabilities (ADA Compliance)- Topic No. 625-020-015 (Department Procedure).

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§ 124.06 LIABILITY AND INSURANCE.

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(B) The permittee shall furnish and maintain such public liability insurance, food products liability insurance, liquor liability insurance, and insurance coverage for property damage arising from all claims and damage to property or bodily injury, including death, which may arise from operations under the permit or connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 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 insured the Ceity, ~~and~~ the Hollywood, Florida Community Redevelopment Agency, and the Florida Department of Transportation, it shall further provide that the policy shall not terminate or be canceled prior to the completion of the permit period without 45 days' written notice to the Risk Management Department of the city and the City Manager's office.

§ 124.07 ISSUANCE; FORM AND CONDITIONS OF PERMIT.

* * *

(B) In addition to naming the permittee and any other information deemed appropriate by the City Manager or his/her designee, the permit shall contain the following conditions:

* * *

~~(10) The Sidewalk Café shall be opened for use by the general public and such use shall not be restricted to patrons of the permittee.~~

~~(10)~~(11) Tables, chairs, umbrellas and any other objects provided with a Sidewalk Café shall be maintained with a clean and attractive appearance and shall be in good repair at all times.

~~(11)~~(12) The sidewalk area covered by the permit shall be periodically pressure cleaned and 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 sealed by the permittee, with a product approved by the City and CRA, at the time of issuance of the permit and any renewal of the permit, or as requested by the City Manager or his/her designee. The Permittee shall maintain the Sidewalk Café area 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.

~~(12)~~(13) No general advertising signs or identification signs shall be permitted in the public right-of-way; this shall not prohibit the use of planters or the valance portion of umbrellas from carrying the name and logo of the Restaurant. Additionally, one menu board, not exceeding four square feet in size, shall be allowed.

~~(13)~~(14) 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 sidewalk within or near the permitted area.

~~(14)~~(15) The permit covers only the public sidewalk. Tables and chairs on private property will be governed by other applicable regulations.

~~(15)~~(16) A copy of the permit/drawing must be maintained on premises at all times and shall be subject to inspection by city personnel upon request.

~~(16)~~(17) In the Hollywood Beach Area, all tableware shall be non-disposable and composed of materials that are sturdy and substantial to ensure that the tableware remains on the table in spite of wind that customarily occurs in South Florida. In addition, cloth napkins shall be used on all tables.

~~(17)~~(18) When a customer vacates the premises, all tableware that was used shall be immediately removed.

~~(18)~~(19) Outdoor entertainment taking place in the designed Entertainment Area shall not utilize amplified or otherwise electrically powered instruments and shall not include any animal. The use of a generator shall not be permitted within the Entertainment Area.

~~(19)~~(20) Outdoor entertainment taking place in the designated Entertainment Area shall not block the passage of the public through the sidewalk or public area. If a crowd gathers within the designated Entertainment Area such that the passageway of the public is blocked, a police officer may disperse that portion of the

crowd that is blocking the public passageway. The police officer may direct the business to temporarily suspend the entertainment when such action is necessary to protect the health, safety, and welfare of the public.

§ 124.08 DENIAL, REVOCATION OR SUSPENSION OF PERMIT.

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(8) For Sidewalk Cafés that are located in a Florida Department of Transportation (FDOT) right-of-way, and are permitted pursuant to a Lease Agreement between the City and FDOT, the permits are subject to the lease terms and the Sidewalk Café permittee is not entitled to an extension or renewal of the permit. Any termination or expiration of the Lease Agreement will automatically terminate any Sidewalk Café permit issued by the City at which time all items must be removed from the lease area.

(9) The use of the City's and FDOT's rights-of-way is subject to any and all Utility Permits, Access Permits and Rights-of-Way Improvement Permits that have been issued or may be issued by either the City and/or FDOT in the future. The City may suspend the Sidewalk Café Permit for any period of time required to complete the work included in the permit.

(B) Upon denial, suspension, or revocation, the City Manager or his/her designee shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason thereof. If the action of the City Manager or his/her designee is based on divisions (A)(2), ~~or (3)~~, (8) or (9) of this section, the action shall be effective upon giving such notice to the applicant or permittee. Otherwise, such notice shall become effective within ten days unless appealed to the City Commission.

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Section 2: That it is the intention of the City Commission and it is hereby ordained that the provisions of this section shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of the Code may be renumbered to accomplish such intention.

ORDINANCE AMENDING CHAPTER 124 SIDEWALK CAFES.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised _____, 2016.

PASSED on first reading this _____ day of _____, 2016.

PASSED AND ADOPTED on second reading this _____ day of _____, 2016.

PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only.

JEFFREY P. SHEFFEL, CITY ATTORNEY