

ORDINANCE NO.2005-12

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF DORAL, FLORIDA, CREATING A SECTION
ESTABLISHING CRITERIA FOR OUTDOOR DINING,
ALSO KNOWN AS SIDEWALK CAFES; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Council finds it to be in the best interests of the City to create an ordinance establishing criteria for sidewalk cafes; now, therefore

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That a Section of the Municipal Code of the City of Doral entitled "Sidewalk Cafes," is hereby created to read as follows:

Sec. _____ . Sidewalk cafes.

(1) Purpose. To establish conditions and requirements under which a sidewalk cafe permit will be issued for sidewalk cafes.

(2) Definitions.

(a) "Accessory use" is a use that (a) is located on the same lot as the principal use; (b) contributes to the comfort, convenience or necessity of the principal use; and, (c) does not exceed thirty (30) percent of the gross floor area (the areas within the perimeter of the inside walls of the building/bay with no deductions for corridors, stairs, closets, thickness of wall, columns or other features, but excluding utility rooms).

(b) "Restaurant/eating establishment" is an establishment primarily engaged in service of food where food is prepared and served for compensation for consumption on the premises.

(c) "Sidewalk cafe" is a portion of a restaurant or eating establishment located outside of the principal building (unenclosed, consistent with guidelines established by staff policy) on a private or public sidewalk which provides a sit down area for food and/or beverage consumption purposes or a sit-down area.

(d) "Sidewalk cafe permit" is a permit issued after approval has been granted by the City based on the criteria outlines below.

(3) *Uses permitted/permit application.* Sidewalk cafes are permitted as an accessory use to a restaurant or eating establishment. Application for a sidewalk cafe permit shall be made to the Community Development Division. If approved, a permit for a sidewalk cafe will be issued for one (1) year and shall be automatically renewed by the Community Development Division if the use remains in compliance with all conditions stated herein. Such permit will not be transferable in any manner.

(4) *Permit types:* Sidewalk cafes not greater than four hundred (400) square feet in area shall be approved by the City's Community Development Director or their designee. Fees for sidewalk cafes greater than four hundred (400) square feet in area shall be paid in accordance to the fees established in the application and approved by the City Manager or designee.

(5) *Submittal requirements.* All site plans (including architectural plans) for sidewalk cafes shall include a sketch; existing interior floor plans; exterior floor plans; building elevations; setbacks; types of landscaping/ground covering; signs; lighting; location of tables, chairs and other furniture; pedestrian ingress and egress (clear path) and other information that is deemed necessary for review. In addition, photographs, drawings, or manufacturers' brochures describing the appearance of the proposed tables, chairs, umbrellas or other objects related to the sidewalk cafe shall be provided.

(6) *Development standards and criteria.* In order to protect the public health, safety, convenience and general welfare of the surrounding uses, sidewalk cafes shall be subject to the following criteria:

(a) The operations of such sidewalk cafe seating area shall be conducted in such a way as to not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets or sidewalks. There shall be a minimum of four (4) feet of clear distance. The minimum four (4) foot requirement will be measured and maintained when chairs and tables are occupied. The sidewalk cafe dining area shall be located adjacent to the building façade, with the four (4) foot clear pedestrian passage provided between the dining area and the edge of the pavement;

(b) All kitchen equipment and refuse containers used to service the sidewalk cafe shall be located inside the primary restaurant unless not enclosed under a permanent roof structure. Service counters or pass through windows are permitted;

(c) Required parking for the sidewalk cafe shall be calculated as one (1) parking space for every two (2) chairs;

(d) The restaurant owner/operator shall be responsible for maintaining the sidewalk cafe in a clean, neat, orderly and safe condition. All debris and litter shall be removed daily. Private trash containers in the sidewalk cafe dining area are prohibited. Public sidewalk trash

containers shall not be used as a means of disposing of table waste generated by restaurant consumers;

(e) Sidewalk cafe furniture must be kept in a clean, orderly and safe condition. White plastic furniture is not permitted in sidewalk cafe areas. All other furniture is subject to staff approval consistent with established guidelines;

(f) Restaurants may serve alcoholic beverages in the sidewalk cafe dining area provided the restaurant complies with all applicable State and/or local laws;

(g) Audio/visual devices (televisions) are permitted in the sidewalk cafe dining area provided the devices are located under a permanent roof, are not visible from the public right-of-way and are not audible across property boundaries or through partitions common to two (2) or more parties within a building. Loud speakers or public address systems in the sidewalk cafe dining area are prohibited for those sidewalk cafes where the principal structure abuts residentially zoned property;

(h) One (1) menu board or sandwich sign is allowed per restaurant and shall be limited to six (6) square feet in area. There shall be no signage or logos displayed on umbrellas or awnings that can be seen from the public right-of-way;

(i) The hours of operation for the sidewalk cafe shall be no greater than that of the principal restaurant and may be less as determined in the review process; and

(j) Upon the issuance of a hurricane warning, all outdoor furniture shall be removed from the sidewalk cafe dining area.

(7) *Liability and insurance for sidewalk cafe dining:*

(a) Prior to the issuance of a permit, the applicant shall provide the City with certified copies of all insurance policies providing coverage as required.

(b) Prior to the issuance of a permit, the applicant shall furnish the City with a signed statement from an authorized officer, or legal representative, of the restaurant 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 arising out of or in any way contributed by the use, maintenance, or operations of the restaurant. Proof of worker's compensation coverage shall also be provided.

(c) The applicant shall furnish and maintain such public liability, food products liability, and property damage insurance from all claims and damage to property or bodily injury, including death, which may arise from the use, maintenance or operations of the sidewalk cafe dining area. Coverage shall specifically include policies of not less than one million and xx/100 dollars (\$1,000,000.00) for bodily injury, and property damage respectively per occurrence. Such insurance shall name as additional insured, the City, its officers and employees, and shall

further provide that that policy shall not terminate or be canceled prior to the completion of the permit period without thirty (30) days written notice to the City. Such insurance will be primary to any insurance or self-insurance whether collectible or not which may be available to the City, its officers or employees.

(d) For restaurants with sidewalk cafes that serve alcoholic beverages, liquor liability insurance in the amount of one million and xx/100 dollars (\$1,000,000.00) per occurrence for bodily injury and property damage is required. The applicant shall furnish and maintain such public liability, liquor products liability, and property damage insurance from all claims and damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Coverage shall not be less than one million and xx/100 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 insured, the City, its officers and employees, and shall further provide that that policy shall not terminate or be canceled prior to the completion of the permit period without thirty (30) days written notice to the City. Such insurance will be primary to any insurance or self-insurance whether collectible or not which may be available to the City, its officers or employees.

(e) An endorsement must be issued as part of the policy reflecting compliance with these requirements.

(f) All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the City by certified mail.

(g) The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.

(8) *Revocation, suspension of permit; emergencies:*

(a) A sidewalk cafe permit may be revoked or suspended by the City Manager or his/her designee upon a finding that a violation of the provisions of this Section occurred, or the sidewalk cafe is being operated in a manner which constitutes a nuisance, that unduly impedes or restricts the movement of pedestrians or in any way contributes an undue liability. A sidewalk cafe permit shall be revoked or suspended by the City Manager or his/her designee if a business receives three (3) violations in a twenty four (24) month period. The revocation or suspension shall be in writing, setting forth specific reasons and providing an effective date.

(b) A sidewalk cafe may be suspended by the City Manager or his/her designee for community or special events, utility, sidewalk or road repairs, or emergency situations or violations of provisions contained herein. The length of the suspension shall be for a duration as

determined by the City Manager or his/her designee. Removal of all tables, chairs and related obstructions shall be the responsibility of the restaurant owner/operator.

Section 3. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Inclusion in Code.

It is the intention of the City Council of the City of Doral, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Doral Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date.

This Ordinance shall become effective immediately upon its passage and adoption.

The foregoing Ordinance was offered by Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	yes
Vice Mayor Pedro Cabrera	yes
Councilman Michael DiPietro	absent
Councilwoman Sandra Ruiz	absent
Councilman Robert Van Name	yes

PASSED AND ADOPTED on first reading this 11th day of May, 2005.

The foregoing Ordinance was offered by Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilwoman Ruiz and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	yes
Vice Mayor Pedro Cabrera	yes
Councilman Michael DiPietro	yes
Councilwoman Sandra Ruiz	yes
Councilman Robert Van Name	yes

If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

PASSED AND ADOPTED on second reading this 8th day of June, 2005.




JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY