

**ORDINANCE NO. 2022-005**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA, AMENDING THE CITY OF PARKLAND LAND DEVELOPMENT CODE BY AMENDING ARTICLE 15 “DETAILED USE REGULATIONS”, DIVISION 5, “SIDEWALK CAFES” TO MODIFY THE CITY’S SIDEWALK CAFÉ REGULATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Parkland, Florida (“City”) wishes to update the regulatory requirements in the City’s Land Development Code relating to sidewalk cafes; and

**WHEREAS**, the City Commission held a duly noticed public hearing on May 18, 2022, after considering the recommendation made by the Planning and Zoning Board at the Board’s duly noticed public hearing held on April 14, 2022; and

**WHEREAS**, the City Commission believes the amendments set forth in this Ordinance to regulate outdoor cafes within the City are in the best interest of the citizens of Parkland.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA, AS FOLLOWS:**

**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.

**SECTION 2.** Article 15 “Detailed Use Regulations,” Division 5, “Sidewalk Cafes” of the City of Parkland Land Development Code is hereby amended to read as follows<sup>1</sup>:

**DIVISION 5. – SIDEWALK CAFES**

**Sec. 15-510. - Permit required.**

It shall be unlawful for any person to establish a sidewalk cafe at any site unless a valid permit to operate a sidewalk café has been obtained ~~for that site,~~ from the city pursuant to this division. The permit shall be requested on an application form provided by the ~~p~~Planning and ~~z~~Zoning ~~d~~Department. No permit shall be issued until all the requirements of this division have been met. Sidewalk café ~~P~~permits shall not be transferable.

**Sec. 15-520. - Required information.**

In addition to the required permit application, the following must be provided at the time the application is submitted:

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<sup>1</sup> Additions to existing text are shown in underline. Deletions to existing text are shown in ~~strikethrough~~.

- A. A copy of a valid city business tax receipt.
- B. A copy of a valid alcoholic beverage license, if applicable.
- C. Proof of liability insurance.
- D. An applicant executed hold harmless and indemnification agreement in accordance with Section 15-560(A) of the Land Development Code.
- E. A description of the days of the week and hours of operation of the sidewalk café.
- F. A copy of the site plan for the center indicating the restaurant location within the plaza.
- B.G. A ~~sketch~~ detailed drawing plan of the area between the storefront and vehicular travel and/or parking surface, drawn to a minimum scale of one (1) inch equals ten (10) feet which shows (as appropriate):
  - 1. The store front and all openings (doors, windows).
  - 2. The location of curbs, sidewalks, and any utility poles, fire hydrants, landscaping, or other items, within the right-of-way and private property, between the curb and the store front.
  - 3. The location of any of the above items which are within six (6) feet of the ends of the proposed use area; and the location of parking spaces (or use of the street) adjacent to the proposed use area.
  - 4. Clear delineation of the boundary between private property and the right-of-way.
  - 5. Delineation of "clear pathways" and "clear distances" as required by this article.
  - 6. Proposed location of tables and chairs and any other objects.
  - 7. Photographs and/or manufacturer brochures depicting the chairs, tables, umbrellas, and other objects including, but not limited to, lighting to be used in the proposed sidewalk cafe area.
  - 8. A plan for the maintenance and cleaning of the following: (i) sidewalk area where the tables and chairs are permitted to be located, (ii) the tables and chairs, and (iii) 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.

**Sec. 15-530. - Processing.**

- A. The ~~p~~Planning and ~~z~~Zoning ~~d~~Director shall review the completed permit application for compliance with this division and ~~shall issue permits accordingly~~ may approve, approve with conditions, or deny the request based on the requirements of this Division and the following additional criteria:
1. Proposed hours of operation for the sidewalk café and the impact on neighboring establishments or communities.
  2. The code enforcement/compliance record for the property.
  3. Police enforcement activities directly related to the operations of the restaurant establishment.
  4. Whether the outdoor seating, subject to appropriate conditions, would be consistent with the protection of the public health, safety, and welfare.
- B. The action of the ~~p~~Planning and ~~z~~Zoning ~~d~~Director may be appealed pursuant to ~~a~~Article 55, ~~d~~Division 15, ~~a~~Appeals of ~~a~~Administrative ~~d~~Decisions.

**Sec. 15-540. - Geographic limitation.**

A permit for a sidewalk cafe may be issued within those zoning districts which allow restaurants, subject to any limitations or restrictions of the particular district.

**Sec. 15-550. - Use, design, and maintenance.**

- A. A sidewalk café shall only be established in conjunction with a legally established full-service restaurant and/or takeout food store, where the food product is prepared, processed, or assembled on the premises (for example: deli, ice cream store, sandwich shop).
- B. The sidewalk cafe operator must comply ~~be in compliance~~ with all applicable building occupancy and health department regulations.
- C. A sidewalk cafe shall be permitted in front of ~~or adjacent to~~ the business and in front of such businesses immediately adjacent to the business with which the sidewalk café is associated. The sidewalk cafe operator must receive the written permission, in a notarized form acceptable to the city, from the affected adjacent businesses owner(s) and property owner before establishing the sidewalk cafe in front of such adjacent business(es). Sidewalk cafes may also be permitted in other locations if determined

by the ~~p~~Planning and ~~z~~Zoning ~~d~~Director to be consistent and compatible with the site plan for the commercial center where the café will be located.

- D. Alcoholic beverages may be consumed ~~at a~~ within a permitted sidewalk cafe provided the required alcoholic beverage license is obtained except if located in a B-1 commercial district, in which case said consumption shall be prohibited. When a restaurant serves alcoholic beverages, the limits of the sidewalk café shall be clearly delineated by an acceptable barrier that utilizes high quality design materials and is compatible with the architectural design of the building, including, but not limited to, decorative fences, walls, planters, or other design measures acceptable to and approved by the City's design review professional. Such barriers shall be at least three (3) feet in height, with the ultimate barrier height subject to approval by the City's design review professional based on site specific conditions and design. In addition, a sign shall be posted at all exit points indicating no open alcoholic beverage containers are allowed outside of the designated permitted sidewalk café area.
- E. The use of the tables and chairs at a sidewalk cafe shall be only for the customers of the business with which the sidewalk café is associated.
- F. A clear pathway, parallel with the street or parking lot, with a minimum width of five (5) feet shall be maintained for through pedestrian traffic. If such a five-foot clear pathway cannot be maintained, no permit shall be issued. A greater width may be required as a condition of approval.
- G. A clear distance with a minimum of five (5) feet shall be provided from any alley, crosswalk, fire hydrant, travel lane, drive aisle or driveway. A greater clear distance may be required as a condition of approval.
- H. Use area and/or seating capacity realized through a sidewalk cafe use and contiguous outdoor dining areas shall not invoke provisions of the zoning code as they pertain to parking or other matters provided that the outdoor seating does not constitute greater than twenty-five (25) percent of the establishment's total seating, when the establishment has more than twenty (20) seats inside. When an establishment has twenty (20) or fewer seats interior to the establishment, up to six (6) outdoor seats may be provided without invoking additional parking requirements.
- I. Food may be carried to tables by patrons or served by a table waiter. Food may be prepared within the sidewalk café area, provided that food shall not be prepared in cooked or stored within the sidewalk cafe area.
- J. Hours of operation shall be the same as the associated businesses unless otherwise restricted through a condition of the sidewalk café permit.
- K. The permit may be suspended upon written notice of the city manager or designee, and the removal of the cafe may be ordered by the city when repairs necessitate such action. The ~~e~~City however, may immediately remove or relocate all or parts of the



sidewalk cafe or order said removal or relocation in emergency situations, without written notice.

- L. Tables, chairs, umbrellas, and any other objects provided within a sidewalk cafe shall be maintained in a clean attractive manner and shall be in good repair at all times, ensuring a tidy and neat appearance. ~~Tables and chairs shall be moved inside the building at the close of each business day.~~
- M. Tables, chairs, umbrellas, and any other objects provided as part of the sidewalk cafe shall be of quality design and materials; both to ensure the safety and convenience of uses, and to be compatible with the uses in the immediate vicinity of the proposed sidewalk cafe. No plastic or concrete tables and chairs shall be permitted.
- N. The sidewalk area, covered by the permit, shall be maintained in a neat and orderly manner at all times and the area shall be cleared of all debris and stains on a periodic basis during the day and again at the close of each business day, ensuring a tidy appearance.
- O. Tables may remain outside within the permitted sidewalk café area and located in compliance with the approved sidewalk café seating plan or stored in a neat and orderly arrangement adjacent to building wall within the permitted sidewalk café area. Tables, chairs, umbrellas, and any other objects provided as part of the sidewalk café shall be moved to the interior of the building upon the issuance of a “high wind watch” or severe weather watch or warning by the National Weather Service and shall remain in the interior of the building until all storm warnings have been rescinded. No tables, chairs, or any other part of the sidewalk cafe equipment shall be attached, chained, or in any manner affixed to any tree, post, sign, building, structure, or other fixtures, ~~curb, or sidewalk~~ within or near the permitted area.
- P. The sidewalk cafe must be operated in such a manner as to comply with all applicable city noise and nuisance regulations. Should the City Manager, or the City Manager’s designee, in their sole discretion determine that noise, nuisance, or crowd control is warranted, a special police detail shall be coordinated with the Broward County Sheriff’s Office or other special measures as required shall be provided at the sole expense of the applicant.
- Q. At least one-half (½) of the area used for the sidewalk cafe must be reserved/dedicated for "no smoking".
- R. Where any part of a sidewalk café area is located within five (5) feet or less of a parking lot or roadway, a permanent barrier shall be required to separate the seating area from the parking lot or roadway. Such permanent barriers shall be made of high-quality materials and shall be compatible with the architectural design of the building and include, but are not limited to, decorative fences, walls, planters, or other ~~All outdoor seating areas shall be protected from adjacent vehicular use areas through~~

design measures accepted by the city design review professional and city engineer. Site specific contexts shall be considered in determining the required and accepted protection methods and design.

- S. Pedestrian access must be maintained at all times through the sidewalk café to the seating areas in order to provide safe public access.
- T. All sidewalk café seating areas must comply with all applicable law, including but not limited to the Americans with Disabilities Act.

**Sec. 15-560. - Liability and insurance.**

- A. Prior to the issuance of a permit, the applicant shall furnish a signed statement in a form approved by the city attorney which provides that the permittee shall hold harmless the city, its officers and employees and shall indemnify the city, its officers, and employees from 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.
- B. The applicant for a permit shall furnish insurance and insurance certificate, which shall be approved by the city attorney, and maintain such public liability, food products liability, and property damage insurance from all claims and damages 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 name the city, its officers and employees as additional insureds and shall further provide that the policy shall not terminate or be canceled without thirty (30) days written notice to the city.

**Sec. 15-570. - Denial, revocation, or suspension of permit.**

- A. The ~~p~~Planning and ~~z~~Zoning ~~d~~Director may deny, revoke, or suspend a permit of any sidewalk cafe in the city if it is found that any of the following has occurred:
  - A1. Any necessary business or health permit has been suspended, revoked, or canceled or has lapsed.
  - B2. Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of the sidewalk cafe, in order to avoid danger to the health, safety or general welfare of pedestrians or vehicular traffic.
  - C3. The sidewalk cafe is being operated in such a manner that it violates the city's noise and nuisance regulations as provided in Chapter 11 of the Code of Ordinances.

- ~~D~~4. The permittee has failed to correct violations of ~~this article or any~~ conditions of ~~permitting the sidewalk café permit approval~~ within three (3) days of receipt of written notice of same.
5. The permittee has three (3) or more violations of this Division 5 within a twelve (12) month period.
6. The permittee has failed to maintain the liability insurance as required by Section 15-560.
- B. Upon denial, revocation, or suspension, the Director shall give notice of such action to the applicant or 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.1., A.2. or A.6. of this section, the action shall be effective within twenty-four (24) hours after the date of hand delivered notice to the permittee and mailed notice to the property owner. Intermediate Saturdays, Sundays and legal holidays shall not be excluded in the twenty-four (24) hour computation. Otherwise, such notice shall become effective within ten (10) calendar days after the date of mailing of notice to the permittee and property owner.

**Sec. 15-580. - Removal and storage fees.**

- A. The city may remove, relocate, or order the removal or relocation of tables and chairs and other items located in the approved sidewalk areas, and may require that the permittee reimburse the city for costs of labor, transportation, and storage, should the permittee fail to remove said items within thirty-six (36) hours of receipt of the written notice from the planning and zoning director ordering removal or relocation. However, in the event of an emergency, no written notice of relocation or removal shall be given and relocation and/or removal shall commence immediately.

**Sec. 15-590. - Code enforcement jurisdiction.**

The code enforcement special magistrate shall have concurrent jurisdiction over violations of this division.

**Sec. 15-595. - Appeals.**

- A. Appeals of the decision of the ~~p~~Planning and ~~z~~Zoning ~~d~~Director or designee shall be initiated within ten (10) days of a permit denial, revocation, or suspension, or of an order of removal or relocation, by filing a written notice of appeal with the city manager.
- B. The ~~e~~City ~~m~~Manager shall place the appeal on the first available regular city commission agenda. At the hearing on 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 of the city manager or designee regarding the suspension, revocation or denial of permit, or the relocation or removal of the vestiges of the sidewalk cafe. Items permitted in conjunction with the sidewalk cafe permit shall be removed as set forth in this division, pending disposition of the appeal and the final decision of the city commission.

**SECTION 3.** It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Land Development Code of the City of Parkland, and that the sections of this Ordinance may be renumbered to accomplish such intent.

**SECTION 4.** All Ordinances or parts of Ordinances, Resolutions, or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.


**SECTION 5.** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

**SECTION 6.** This Ordinance shall be in full force and effect immediately upon its passage and adoption.


**PASSED 1<sup>ST</sup> READING THIS 4<sup>th</sup> DAY OF MAY, 2022.**

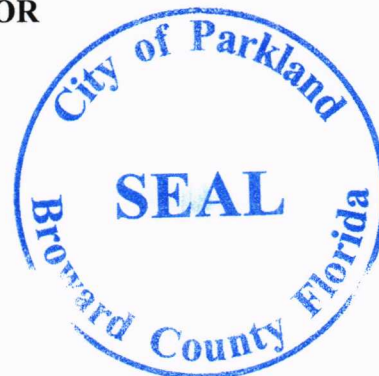
**ADOPTED ON 2<sup>ND</sup> READING THIS 18<sup>th</sup> DAY OF MAY, 2022.**

**CITY OF PARKLAND, FLORIDA**

  
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**RICHARD W. WALKER**  
**MAYOR**

ATTEST:

  
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**ALYSON MORALES, MMC**  
**CITY CLERK**





Approved as to form and legality

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**ANTHONY SOROKA**  
**CITY ATTORNEY**

Record of the vote

Mayor Walker

yes

Vice Mayor Cutler

yes

Commissioner Brier

yes

Commissioner Isrow

yes

Commissioner Mayersohn

yes