

ORDINANCE NO. 2013-55

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE NEW ZONING CODE, CHAPTER 155, "ZONING CODE," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES; BY AMENDING SECTION 155.2407, "SITE PLAN," TO REQUIRE A MINOR SITE PLAN DEVELOPMENT ORDER FOR SIDEWALK CAFES; BY AMENDING SECTION 155.4303, "STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES," TO ESTABLISH SIDEWALK CAFES AS AN OUTDOOR SEATING USE, BY ALTERING STANDARDS FOR OUTDOOR SEATING, BY CREATING STANDARDS SPECIFIC TO SIDEWALK CAFES AND BY PROVIDING FOR REVOCATION OF SIDEWALK CAFÉ PERMITS; BY AMENDING ARTICLE 9, PART 5, "TERMS AND USES DEFINED," TO DEFINE SIDEWALK CAFES AND AMEND DEFINITION OF SIDEWALK AND OUTDOOR SEATING; AND BY AMENDING APPENDIX C: "FEE SCHEDULE," TO ESTABLISH A FEE FOR OUTDOOR SEATING AND SIDEWALK CAFÉ PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Pompano Beach ("City Commission") found it necessary to revise its Zoning Code of Ordinances ("Code") in order to update its zoning regulations and procedures; and

WHEREAS, the City Commission finds it now necessary to revise the City of Pompano Beach Zoning Code; and

WHEREAS, the City Commission finds that adoption of the amendments to Zoning Code through its police powers will protect the public health, safety, and welfare of the residents of the City, and furthers the purpose, goals, objectives, and policies of the City's Comprehensive Plan; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the preceding "Whereas" clauses are ratified and incorporated as a record of the legislative intent of this Ordinance.


SECTION 2. That the City of Pompano Beach Zoning Code is hereby amended as provided in Exhibit "A," attached hereto and made a part hereof.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

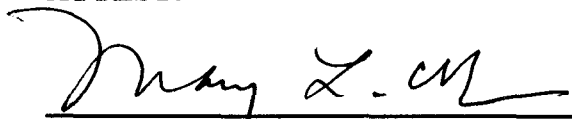
PASSED FIRST READING this 23rd day of _____ April, 2013.

PASSED SECOND READING this 14th day of _____ May, 2013.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

GBL/jrm
3/27/13
L:ord/ch155/2013-215

ARTICLE 2, ADMINISTRATION

Part 4, APPLICATION SPECIFIC REVIEW PROCEDURES

155.2407. SITE PLAN

B. Applicability

2. Minor Site Plan

Unless exempted in accordance with subsection 3 below, a development order for a Minor Site Plan in accordance with this section is required before issuance of a Zoning Compliance Permit for any development other than those for which a Major Site Plan is required in accordance with subsection 1 above. A development order for a Minor Site Plan is also required before the issuance of a Zoning Compliance Permit for a Sidewalk Café accessory to an existing eating or drinking establishment.

ARTICLE 4, USE STANDARDS

Part 3, ACCESSORY USES AND STRUCTURES

155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

V. Outdoor Seating, including Sidewalk Cafes (as accessory to an eating and drinking establishment)

2. Definition

~~Outdoor seating as accessory to an eating or drinking establishment is the provision of on-site accessory outdoor seating areas by an eating or drinking establishment where food or beverages are served for consumption. The accessory use also may include outdoor seating areas on public sidewalks in front of the establishment.~~ that is located on private property. This use shall also include Sidewalk Cafes, which are outdoor seating areas permitted on public sidewalks in front of the establishments.

3. Standards

Outdoor seating is allowed as an accessory use to any eating or drinking establishment, ~~except in an Industrial-1 or Industrial-IX zoning district,~~ subject to the following standards:

- ~~a. Except within the Atlantic Boulevard Overlay district, the outdoor seating area shall be located at least 100 feet from any property containing a single family dwelling or within a Single-Family Residential (RS-) zoning district.~~

- ~~b. a~~ No sound production or reproduction machine or device (including, but not limited to musical instruments, loud-speakers, and sound amplifiers) shall be used, operated, or played in the outdoor seating area at a volume that is any louder than necessary for the convenient hearing of persons within the outdoor seating area, and that would disturb the peace, quiet, or comfort of adjoining properties.
- ~~e. b~~ Hours of operation of the outdoor seating area shall be the same as those for the eating or drinking establishment.
- ~~d. c~~ Food preparation shall occur only within the enclosed principal building containing the eating or drinking establishment.
- d. Except in the Atlantic Overlay District, the number of outdoor seats shall not exceed the number of indoor seats.
- ~~e.~~ The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- ~~f.~~ No tables, chairs, umbrellas, or other furnishings or equipment associated with the outdoor seating area shall be attached, chained, or otherwise affixed to any curb, sidewalk, tree, post, sign, or other fixture within the outdoor seating area.
- ~~g.~~ The outdoor seating area shall be maintained in a neat and orderly appearance at all times and cleared of all debris on a periodic basis during the day and at the close of each business day, to ensure a healthy and safe environment.
- ~~h.~~ The outdoor seating area of an eating or drinking establishment may be permitted on a public sidewalk abutting or adjacent to the front of the property containing such establishment, subject to the following requirements:
 - ~~i.~~ The outdoor seating area shall be limited to that part of the sidewalk directly in front of the property containing the eating or drinking establishment unless the owner of adjoining property agrees in writing to an extension of the outdoor seating area to that part of the sidewalk in front of the adjoining property.
 - ~~ii.~~ The operator of the establishment shall enter into a revocable license agreement with the city that has been approved as to form by the City Attorney and:
 - ~~(A)~~ Ensures that the operator is adequately insured against and indemnifies and holds the city harmless for any claims for damages or injury arising from sidewalk dining operations, and will maintain the sidewalk seating area and facilities in good repair and in a neat and clean condition;
 - ~~(B)~~ Authorizes the city to suspend authorization of the outdoor seating use, and to remove or relocate or order the removal or relocation of any sidewalk seating facilities, at the owner's expense, as necessary to accommodate repair work being done to the sidewalk or other areas within the right-of-way containing or near the outdoor seating area; and
 - ~~(C)~~ Authorizes the city to suspend or revoke the establishment's business tax receipt for violation of these standards or conditions of the license agreement and to remove or relocate or order the removal or relocation of any sidewalk seating facilities, at the operator's expense, if the operator fails to comply with a city order to do so within a reasonable time period.

- ~~iii. A clear pathway at least five feet wide shall be maintained to allow through public pedestrian traffic along the sidewalk and from the sidewalk into the entrance to the establishment. A greater width may be required where necessary to ensure the safe and convenient flow of pedestrian traffic.~~
- ~~iv. A clear distance of at least five feet shall be maintained from any alley, crosswalk, fire hydrant, or similar public or emergency access feature in or near the sidewalk. A greater clear distance may be required where necessary to ensure use of the public or emergency access feature.~~
- ~~v. No objects shall be placed along the perimeter of the outdoor sidewalk seating area that would have the effect of forming a physical or visual barrier discouraging the use of the sidewalk by the general public.~~
- ~~vi. Tables, chairs, umbrellas, and other furnishings associated with the outdoor seating area shall be of sufficient quality design, materials, and workmanship to ensure the safety and convenience of area occupants and compatibility with adjacent uses.~~

e. Location / Dimensional Standards.

- i. Except within the Atlantic Boulevard Overlay district, the outdoor seating area shall be located at least 100 feet from any property containing a single-family dwelling or within a Single-Family Residential (RS-) zoning district.
- ii. If located within or adjacent to a public right-of-way or sidewalk, the outdoor seating area shall:
 - A. Not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
 - B. Maintain a clear distance of at least five feet from any alley, crosswalk, fire hydrant, or similar public or emergency access feature in or near the sidewalk. A greater clear distance may be required where necessary to ensure use of the public or emergency access feature.
 - C. Not place any objects adjacent to or within the sidewalk that would have the effect of forming a physical or visual barrier.
- iii. For sidewalk cafes only, the outdoor seating area shall be limited to that part of the sidewalk directly in front of the property containing the eating or drinking establishment unless the owner of adjoining property agrees in writing to an extension of the outdoor seating area to that part of the sidewalk in front of the adjoining property.

f. Appearance Standards.

- i. Tables, chairs, umbrellas, and other furnishings associated with the outdoor seating area shall be of sufficient quality design, materials, and workmanship to ensure the safety and convenience of area occupants and compatibility with adjacent uses.
- ii. No tables, chairs, or any other parts of an outdoor seating area shall be attached, chained or in any manner affixed to any tree, post, sign or other fixture, curb, or sidewalk in or near the permitted area.

- iii. Signage is not permitted on tables, chairs, umbrellas, or any other furnishings associated with outdoor seating areas that are visible from right-of-way.

g. Sidewalk Cafes.

The following standards are applicable only to Sidewalk Cafes:

- i. Existing eating or drinking establishments seeking a sidewalk café permit shall be required to obtain Minor Site Plan approval.
- ii. A sidewalk café permit issued pursuant to this section expire annually on September 30.
- iii. **Insurance / hold harmless requirements**

The operator of the eating or drinking establishment shall enter into a Hold Harmless agreement with the city that has been approved as to form by the City Attorney and includes the following:

- A. Ensures that the operator is adequately insured against and indemnifies and holds the city harmless for any claims for damages or injury arising from sidewalk dining operations, and will maintain the sidewalk seating area and facilities in good repair and in a neat and clean condition:
 - 1. Commercial general liability insurance in the amount of \$1,000,000.00, per occurrence, for bodily injury and property damage; and
 - 2. The city must be named as an additional insured on this policy, and a certificate of insurance containing an endorsement must be issued as part of the policy.
- B. For sidewalk cafes which serve alcoholic beverages, alcoholic-license liability insurance in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and a certificate of insurance containing an endorsement must be issued as part of the policy.
- C. Authorizes the city to suspend authorization of the outdoor seating use, and to remove or relocate or order the removal or relocation of any sidewalk seating facilities, at the owner's expense, as necessary to accommodate repair work being done to the sidewalk or other areas within the right-of-way containing or near the outdoor seating area.

iv. Revocation of Sidewalk Café Permit

The approval of a sidewalk cafe permit is subject to revocation at all times. A sidewalk cafe permit may be revoked or suspended if it is found that:

- A. The permit holder does not have insurance which is correct and effective in the minimum amounts described in Section 155.4303.V.3.c.i.B;
- B. Any necessary business or health permit or license has been suspended, revoked or canceled;
- C. The permit holder exceeds the approved square footage by placing any additional tables, chairs, etc., beyond the approved area;

- D. The permit holder has failed to correct violations of this article or conditions of this permit within 72 hours of receipt of the notice of violations delivered in writing to the property; or.
- E. The site is not in compliance with the approved outdoor seating site plan.

ARTICLE 9, DEFINITION AND INTERPRETATIONS

PART 5, TERMS AND USES DEFINED

OUTDOOR SEATING, INCLUDING SIDEWALK CAFES

The provision of ~~on-site~~ accessory outdoor seating areas by an eating or drinking establishment where food or beverages are served for consumption. ~~The accessory use also may include outdoor seating areas on public sidewalks in front of the establishment.~~ that is located on private property. This use shall also include Sidewalk Cafes, which are outdoor seating areas permitted on public sidewalks in front of the establishments.

SIDEWALK

A hard-surfaced, all-weather pedestrian way, usually within a right-of-way line which is located between the curb line or the lateral line of a street and the adjacent property line and which is intended for use by pedestrian.

SIDEWALK CAFÉ

See Outdoor seating.

APPENDIX C: FEE SCHEDULE

TYPE OF APPLICATION	FEE

II. OTHER DEVELOPMENT SERVICES APPLICATIONS	

I. Site Plan	

<u>3. Outdoor Seating</u>	<u>\$130</u>

<u>M. Sidewalk Café Permit</u>	<u>Annual fee of \$20 for the first four tables; plus \$20 for each additional table</u>