



**CITY OF
MOUNT
DORA**

City of Mount Dora
Planning and Development
510 N. Baker St.
Mount Dora, FL 32757
352-735-7113
Fax: 352-735-7191
E-mail: plandev@cityofmoundora.com

SIDEWALK CAFE' PERMIT APPLICATION

Date: _____

Please complete the following (type or print clearly):

ESTABLISHMENT INFORMATION

Business Name

Business Address

APPLICANT/BUSINESS OWNER INFORMATION

Applicant Name

Mailing Address

City, State, Zip Code

Telephone Number

Business Email Address

PROPERTY OWNER INFORMATION

Owner Name

Mailing Address

City, State, Zip Code

Telephone Number

Email Address

This application shall include, but not limited to the following information being submitted at the time of Application:

- A drawing (scaled or proportional drawn) of the cafe' area shall be required with measurements outlining the location, boundary, tables, chairs, barriers, stanchions, host or hostess stations, and other features.
- Copy of City of Mount Dora Business Tax Receipt (Occupational License).
- Copy of State of Florida, Division of Business and Professional Regulations: Division of Hotel and Restaurant License, where applicable.
- A copy of your current Liability Certificate of Insurance providing coverage of not less than \$1,000,000.00 for property damage, bodily injury, or death payable to any one person and \$2,000,000.00 for property damage, bodily injury or death when totaled with all other claims or judgments arising out of the same incident or occurrence, and meeting all requirement of Section 3.5.29 of the City's Land Development Code.
- A signed statement indemnifying the City, its officers and employees for any damages to property or injury to persons which may be occasioned by any activity carried under the terms of the permit.

Note: There is no separate Sidewalk Cafe' application fee.

CERTIFICATION AND SIGNATURE

The applicant hereby acknowledges that he/she has received a copy of Section 3.5.29 of the City's Land Development Code regarding the regulations and guidelines for Sidewalk Cafe'. The Applicant's signature below hereby certifies that he/she has been made aware of the permit requirements, criteria, regulations, and standards and has read all of Section 3.5.29 of the City's Land Development Code prior to submitting this Application.

(I)(We) certify that (I)(We) understand and will comply with the provisions and regulations of Section 3.5.29 of the City's Land Development Code relating to Sidewalk Cafe'.

APPLICANT SIGNATURE

DATE



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HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

SIDEWALK CAFÉ

This Hold Harmless and Indemnification Agreement made and entered into the _____ day of _____, 20____ by and between _____ (Applicant/Permittee Name) and the City of Mount Dora, a Florida Municipal Corporation (City). In consideration of the issuance of the City of Mount Dora of a permit for the Applicant/Permittee to operate a sidewalk café at _____ (address) the Applicant/Permittee does hereby agree to hold harmless and indemnify the City, its officers, and employees from all claims, causes of action, liabilities, damages, costs (including attorney's fees) arising from any claim for personal injury or property damaged incurred, asserted against, or to which the City may be subjected, caused by the operation of the sidewalk café permit activities in said right-of-way at the above-referenced location.

The Applicant/Permittee assumes sole responsibility for abiding by all applicable Land Development Codes, Code of Ordinances, and regulations relating to the sidewalk café within the public right-of-way.

Signature of Applicant/Permittee: _____

Print Name: _____

Date: _____

ORDINANCE NO: 2013-19

AN ORDINANCE OF THE CITY OF MOUNT DORA, LAKE COUNTY, FLORIDA, AMENDING SECTION 10.040 CONSUMPTION ON CITY PROPERTY OF THE *CODE OF ORDINANCES*; TO ALLOW FOR ALCOHOL BEVERAGES FOR SIDEWALK CAFES WITHIN THE CITY'S RIGHTS-OF-WAY; TO ADD NEW SECTION 3.5.29 ENTITLED 'SIDEWALK CAFE' OF THE *LAND DEVELOPMENT CODE*; TO ALLOW FOR 'SIDEWALK CAFE' AS AN ACCESSORY RESTAURANT USE WITHIN THE C-2 DOWNTOWN COMMERCIAL ZONING DISTRICT; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, under its home rule powers, the City of Mount Dora may regulate land use matters including an amendment of the Mount Dora Code of Ordinances and Land Development Code; and

WHEREAS, the City Council from time to time provides updates and amendments to the Mount Dora Code of Ordinances and Land Development Code in order to provide proper review procedures, zoning standards, and regulations for new developments and redevelopments within the City; and

WHEREAS, the City Council is desirous to clarify and update special zoning accessory use in order to regulate and restrict intensity of certain temporary uses; and

WHEREAS, the City Council on April 16, 2013 approved the Downtown Streetscape Phase 1, which included the Fourth Avenue pedestrian mall; and

WHEREAS, the City Council encourages traditional downtown uses including sidewalk cafe style settings, which allow for dining, entertainment, and promote commerce; and

WHEREAS, the City Council of the City of Mount Dora hereby finds and determines that the provisions of this Ordinance advance a legitimate public purpose and promote and protect the public health, safety, morals and welfare of the public.

NOTE: Underlined words constitute additions to the original text of the *Code of Ordinances and Land Development Code*; ~~striketroughs~~ constitute deletions to the original text of the *Code of Ordinances and Land Development Code*; and asterisks (***) indicate omissions from the original text of the *Code of Ordinances and Land Development Code* which is intended to remain unchanged.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mount Dora, Florida, as follows:

SECTION 1: The recitals set forth above are hereby adopted as legislative findings of the City Council of the City of Mount Dora.

SECTION 2: Chapter 10 - Alcoholic Beverages, Section 10.040 Consumption on City property of the *Code of Ordinances* is hereby revised as follows:

Sec. 10.040. - Consumption on City property.

(a) Generally. It shall be unlawful for any person to consume any alcoholic beverage, including beer and wine, upon any City-owned parks and beaches, City property or street, alley or sidewalk of the City. This section shall not apply to any City owned property which is subject to a management contract, or sidewalk cafes. For those properties, alcohol consumption shall be governed by rules established jointly by the managing entity and the City manager. Further, this section shall not apply to those portions of the above named properties included within the boundaries established by the City Council for a special event for which permission to consume alcoholic beverages is given in conjunction with the permission for the event. In addition, the City Council shall have the right to limit the type of alcoholic beverage to be consumed when granting any such permit.

(b) Carrying open containers. It shall be unlawful for any person to carry an opened bottle, can or other container containing an alcoholic beverage, including beer and wine, upon any City parks, City beaches, City property or street, alley or sidewalk of the City, provided that this subsection shall not apply to the interior of any vehicle driven upon the ways or property of the City. Further, this section shall not apply to those portions of the above named properties included within the boundaries established by the City Council for a special event for which permission to carry open containers of alcoholic beverages is given in conjunction with the permission for the event, or sidewalk cafes. In addition, the City Council shall have the right to limit the type of alcoholic beverage to be consumed when granting any such permit. In no event will consumption occur directly from glass containers.

SECTION 3: New Section 3.5.29 entitled Sidewalk Cafe' of the *Land Development Code* is hereby established to read as follows:

3.5.29. Sidewalk Cafe.

1. Necessity and intent.

- a. There is a need for regulations and standards for the existence and operation of sidewalk cafes to facilitate and ensure a safe environment in these areas.
- b. The establishment of permit conditions and safety standards for sidewalk cafes is necessary to protect and promote the general health, safety and welfare of the residents of the City.

2. Sidewalk cafe authorized. Restaurant operators, eating and/or drinking establishments located within the C-2 Downtown Commercial Zoning District are allowed to operate a sidewalk cafe that conforms to the requirements of this section and other applicable provisions of this code, and are hereby made exempt from the prohibition of conducting business within a public right-of-way of this code.

3. Definitions. The followings words, terms, and phrases, when used in this section, shall have meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Permittee means the recipient of a sidewalks cafe permit under the terms and provisions of this section.

Sidewalk cafe means seating located on a sidewalk or pedestrian mall which is associated with an adjacent eating and/or drinking establishments where food or beverages are delivered for consumption on the premises. It is characterized by movable tables and chairs and may be shaded by umbrellas. Sidewalk cafes shall be permitted only as an accessory use to a licensed restaurant or food/drinking establishment.

4. Permit and application requirements.

- a. It shall be unlawful for any person to operate a sidewalk Cafe on any sidewalk or public right-of-way within the city without obtaining a permit as required by this article. Sidewalk cafes shall only be located where permitted by the City's Land Development Code. No person shall establish a sidewalk cafe on a public sidewalk unless such person has obtained a valid permit to operate that sidewalk cafe pursuant to this code.
- b. The Chief of Police or designee shall have the right to remove, after 24 hours' notice, any tables, chairs and other objects on public property which are used in connection with a sidewalk cafe which do not have a permit, and shall have the right to immediately remove any tables, chairs or other objects on public property which impede pedestrian traffic or pose a threat to the public health, safety or welfare.
- c. A permit for a sidewalk cafe shall be issued only to the operator of a valid food and/or drink license and operating restaurant who wishes to provide moveable tables and chairs on the sidewalk or pedestrian mall adjacent to the restaurant.
- d. Application forms for permits to operate a sidewalk cafe are provided by the Planning and Development Department.
- e. A scaled drawing of the cafe area shall be required with each sidewalk cafe permit application with measurements outlining the location, boundary, tables, chairs, barriers, stanchions, host or hostess stations, and other features.

- f. A copy of a valid business tax receipt to operate a food and/or drinking establishment in front of which the proposed sidewalk cafe will be located. The number of chairs or seats to be utilized for the sidewalk cafe must be included in the number of seats authorized by the license.
 - g. A copy of the state alcoholic beverage license and state approved site plan identifying the extension of this permit to the sidewalk where the cafe seating will operate as required by this code.
5. Fees may be required as adopted by resolution of the City Council.
6. Standards and criteria.
- a. Sidewalk cafes shall be located in such a manner that a minimum width of five (5) feet is maintained at all times as an unobstructed pedestrian path.
 - b. Sidewalk cafes operating within the Fourth Avenue pedestrian mall may operate within ten (10) feet from the curb of the adjoining business.
 - c. Sidewalk cafes are restricted to the usable sidewalk area, pedestrian mall, and adjacent outdoor seating area of the licensed establishment to which the permit is issued or within the usable sidewalk area of the building where the validly licensed restaurant is located.
 - d. All tables, chairs, umbrellas, heaters, signs or other personal property will not be permitted within five feet of a pedestrian crosswalk or handicap corner curb cut.
 - e. The sidewalk cafe demonstrates that the cafe's seating will not obstruct vehicle passengers from exiting their cars with the placement of their curbside tables.
 - f. All furniture shall be stored inside the establishment whenever the business is closed.
7. Special restrictions.
- a. Sidewalk cafes shall not be allowed to operate during special events, unless authorized by the sponsoring event coordinator.
 - b. Sidewalk cafe operations may be required to cease immediately at the sole discretion of the City.
 - c. The sidewalk cafe permit is a license to temporarily use the City's sidewalks or pedestrian mall within the City's rights-of-way. It is not intended and shall not be constructed as an interest in the real property.
 - d. For the purpose of public safety, at any time after obtaining a sidewalk cafe permit, the permittee may be limited to use of non-breakable beverage containers after the Police Department receives complaints or there are observations for the need to amend the sidewalk cafe permit to impose the non-breakable beverage provision.

- e. The permit covers the public sidewalk and right-of-way adjacent to the establishment. Tables and chairs on private property will be governed by other applicable regulations. No additional outdoor seating authorized pursuant to this code shall be used for calculating seating requirements pertaining to applications for or issuance of an alcoholic beverage license for any establishment; nor shall the outdoor seating be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any City ordinance or state law. However, additional outdoor seating authorized pursuant to this code shall be included in determining required plumbing or accessibility fixtures or other fire and building code requirements.
- f. Approval of a sidewalk cafe permit shall be conditioned upon obtaining the necessary state alcoholic beverage license and meeting all state alcoholic beverage requirements. The approved site plan by the state for the state alcoholic beverage license to allow service outside of the establishment must conform to the proposed site plan for the cafe' seating and must be submitted with the application for a sidewalk cafe permit. All tables and chairs must not exceed the boundaries of the state alcoholic beverage plan and the sidewalk cafe plan.

8. Alcohol service.

- a. Sidewalk cafes are hereby made exempt from the prohibition on the sales and consumption of alcoholic beverages outside of a licensed building as provided by this code.

9. Liability and indemnification.

- a. Prior to the issuance of a permit, the applicant shall furnish a signed statement indemnifying the City, its officers and employees for any damages to property or injury to persons which may be occasioned by any activity carried under the terms of the permit.
- b. A permittee shall pay, and by its acceptance of a permit specifically agrees to pay, any and all damages or penalties which the City may be legally required to pay as a result of the permittee's operation or maintenance of a sidewalk cafe under this part, whether or not the acts or omissions complained of are authorized, allowed or prohibited by the City.
- c. A permittee shall also pay all expenses incurred by the City in defending itself with regard to any and all damages and penalties mentioned in subsection (a) above. These expenses shall include all out-of-pocket expenses, including a reasonable attorney's fee and the reasonable value of services rendered by any employee of the City.

- d. The permittee shall maintain, throughout the term of the permit, liability insurance insuring the City and the permittee with regard to all damages mentioned in subsection (a) above caused by the grantee or its agents, in the minimum amounts of:
- e. Workers' and unemployment compensation insurance as provided by the laws of this state.
- f. One hundred thousand dollars for property damage, bodily injury, or death payable to any one person and \$2,000,000.00 for property damage, bodily injury or death when totaled with all other claims or judgments arising out of the same incident or occurrence.
- g. The insurance policies obtained by a permittee in compliance with this section shall be issued by a company or companies acceptable to the City and a current certificate or certificates of insurance, along with written evidence of payment of all required premiums, shall be filed and maintained with the City during the term of the permit. The policies shall name the City as an additional insured and shall contain a provision that written notice of cancellation or reduction in coverage of the policy shall be delivered by registered mail to the City at least 30 days in advance of the effective date thereof.
- h. An applicant for a permit shall be required to submit evidence of liability insurance in the amount of \$1,000,000.00 covering injuries to members of the general public arising out of such permitted activities.

10. Revocation or suspension; emergencies.

- a. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended if it is found that:
 - (1) Any necessary business or health permit has been suspended, revoked or canceled.
 - (2) The permittee does not have insurance which is correct and effective in the minimum amounts described in this section.
 - (3) The permittee exceeds the approved number of seats by placing additional tables, chairs, etc. in or beyond the approved area.
 - (4) The permittee has failed to correct violations of this code or conditions of this permit within 24 hours of receipt of the director's notice of such violations delivered in writing to the permittee.
- b. If the permittee fails to remove any tables, chairs and other objects related to sidewalk cafe' within 48 hours of receipt of the Chief of Police or designee final

notice of revocation or suspension, the Chief of Police or designee shall have the right to remove such objects.

- c. If a permittee is found in violation of the codes and given a written citation on three occasions in a single year as identified as the beginning date of the permit issuance the sidewalk cafe permit shall be suspended for a period of time, or revoked as determined by the Chief of Police or designee, effective immediately upon receipt of a third violation. In addition, if the Chief of Police or designee believes that a permittee has engaged or is engaged in conduct warranting the suspension or revocation of the permit, the Chief of Police or designee shall serve the permittee by certified mail or hand delivery at his business address as disclosed in the application for the permit or at the permitted premises, a written administrative complaint which affords reasonable notice of facts or conduct which warrant the intended action. The permittee shall be given adequate opportunity to request an administrative hearing before the code enforcement unless the Chief of Police or designee finds that an emergency condition exists involving serious danger to public health, safety or welfare, in which case advance notice and hearing shall not be required. In the case of an emergency suspension or revocation, the permittee shall immediately be advised of the Chief of Police or designee's action and afforded a prompt post-suspension or revocation hearing in accordance with the procedures set forth in this Code. Appeals of applications or cafe seating plans rejected by the City may be heard by the Planning and Zoning Commission for either upholding the decision of the Chief of Police, further revising and approving the plan or approving the submitted plan.

SECTION 4: CONFLICTS. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 5: SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 6: CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances and Land Development Code of the City of Mount Dora. The Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption.

PASSED AND ORDAINED this 15th day of October 2013, by the City Council of the City of Mount Dora, Florida.

Attest:



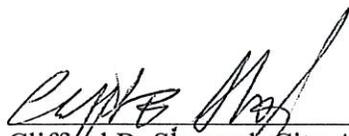
Gwen Johns, City Clerk
City of Mount Dora



Robert Thielhelm, Sr., Mayor
City of Mount Dora

Date of First Reading: October 1, 2013
Date of Second Reading: October 15, 2013
Duly Advertised: October 4, 2013 and September 20, 2013

Approved as to form:



Clifford B. Shepard, City Attorney
City of Mount Dora

