

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2019-35

AN ORDINANCE OF THE CITY COMMISSION PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES OFFICIAL ZONING CODE, ARTICLE 4, "ZONING DISTRICTS," SECTION 4-206, "BUSINESS IMPROVEMENT OVERLAY DISTRICT (BIOD)," TO PERMIT A CONDITIONAL USE FOR OUTDOOR SEATING ON PRIVATE PROPERTY FOR NONRESTAURANT FACILITIES; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 4-206(B)(4) of the City's Zoning Code sets forth regulations for outdoor dining for restaurants fronting Miracle Mile and Giralda Plaza and there is currently no provision in the Zoning Code for outdoor seating in connection with a non-restaurant; and

WHEREAS, the City Commission wishes to permit outdoor seating as a conditional use on private property only, for those non-restaurant facilities located in areas of the Business Improvement District not fronting Miracle Mile or Giralda Plaza; and

WHEREAS, amendments to Section 4-206(B)(4) are necessary to permit a conditional use for outdoor seating for non-restaurant facilities; and

WHEREAS, on August 27, 2019, a public hearing was held for the City Commission's consideration of the text amendments to the Zoning Code, and after due consideration and discussion, the City Commission approved the amendments on first reading (vote: 4-1); and

WHEREAS, at a public hearing held on September 11, 2019, the Planning & Zoning Board recommended approval of the amendments (vote: 6-0); and

WHEREAS, after notice duly published, a second public hearing was held before the City Commission on October 9, 2019, and after due consideration and discussion, the City Commission approved the amendments on second reading (vote: 5-0);

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

SECTION 1. That 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. The Official Zoning Code of the City of Coral Gables is hereby amended as follows¹:

ARTICLE 4 – ZONING DISTRICTS

Division 2. Overlay and Special Purpose Districts

Section 4-206. Business Improvement Overlay (BIOD) District.

B. Business Operation Standards.

4. Outdoor Dining and Outdoor Seating– Pre-approved outdoor dining locations and design for restaurants or nonrestaurant facilities with approved retail beverage or retail liquor store licenses fronting Miracle Mile and Giralda Plaza; expedited process.
 - a. Miracle Mile and Giralda Plaza Expedited Approval Process. The Development Review Official shall serve as a point of contact for applicants for the Miracle Mile and Giralda Plaza. Applications that meet the Pre-Approved Design Standards below shall be subject of Expedited Review and shall be processed within one (1) month of receipt.
 - i. Location. Expedited Review will be provided for outdoor dining for the Pre-Approved Design Standards below on both private property and public right-of-way for properties abutting the following streets:
 - (a) Miracle Mile.
 - (b) Giralda Plaza.
 - ii. Pre-Approved Design Standards. The Development Review Official will maintain a Miracle Mile and Giralda Plaza Outdoor Dining Plan with pre-approved locations, configurations, and a menu of pre-approved furniture options for Expedited Outdoor Dining Permits. The menu of pre-approved furniture options may be amended from time to time to include outdoor dining furniture that has been previously approved by the Board of Architects. Applications that comply with the Outdoor Dining Plan shall be reviewed and approved administratively by the Development Review Official.
 - iii. Special Design Review. For Applicants seeking unique outdoor dining locations, configurations, and furniture not addressed in the Miracle Mile and Giralda Plaza Outdoor Dining Plan, Board of Architects approval shall be required as per the Zoning Code.
 - iv. Insurance Requirements. Insurance requirements for Outdoor Dining within the public right-of-way on Miracle Mile and Giralda Plaza shall be covered by the Property Owner and/or the Applicant in coordination with the City.

¹ Deletions are indicated by ~~strike through~~. Insertions are indicated by underline.

- v. Public Works and/or City of Coral Gables Public Services Restrictive Covenant. A Uniform Miracle Mile and Giralda Plaza Restrictive Covenant for right-of-way encroachments shall be available to applicants. Restrictive Covenants shall be coordinated by the Development Review Official.
- vi. Fees. As set forth in the Fee Schedule.
- vii. Applicant. The Applicant for an outdoor dining permit shall be the business that will operate the restaurant and corresponding outdoor dining.
 - (a) Standards, Criteria and Conditions:
 - (i) The area covered by a sidewalk cafe permit, and the sidewalk and street immediately adjacent to it, shall be maintained in a clean, neat and orderly appearance at all times by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation, and again at the close of each business day, or as may otherwise be determined by the Development Review Official.
 - (ii) Outdoor dining furniture shall be located at least ten (10) feet from the storefront or façade of the building. If the building is set back then a ten (10) foot clearance of the sidewalk shall be maintained.
 - (iii) Tables, chairs, umbrellas and any other sidewalk cafe furniture shall be maintained in a clean, attractive, and orderly appearance, and shall be maintained and kept in good repair at all times.
 - (iv) All sidewalk cafe furniture shall be of high quality, design, materials, and workmanship so as to ensure the safety and convenience of the public.
 - (v) The stacking or piling up of chairs shall be prohibited on the right-of-way at all times.
 - (vi) The Development Review Official may require a permittee to store its tables, chairs and/or umbrellas off of the right-of-way if, in his reasonable judgment and discretion, the Development Review Official determines that the sidewalk cafe permit area and immediately adjacent public right-of-way are not being adequately maintained in accordance with this division.
 - (vii) No storage of dishes, silverware or other similar sidewalk cafe equipment shall be allowed in the permit area, or in any other portion of the public right-of-way, or outside the structural confines of the building in which the restaurant is located, during non-business hours.
 - (viii) Live entertainment or speakers placed in permitted areas shall comply with noise regulations and hours of operation.
 - (ix) No food preparation, food storage, refrigeration apparatus or equipment, or fire apparatus or equipment, shall be allowed on the right-of-way.
 - (x) No food displays shall be permitted on the public right-of-way.
 - (xi) No advertising signs or business identification signs shall be permitted on the public right-of-way except as otherwise allowed in this Section.
 - (xii) No retail sales or displays shall be allowed on any public right-of-way areas, except as otherwise approved by the City Manager or his/her designee on a conditional and revocable basis where said displays are found to be compatible with, and further, City objectives.

- (xiii) Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the right-of-way. Two (2) or more umbrellas may not be clipped, zipped or otherwise fastened together in order to form a tent like structure. Clear plastics or other materials may not be fastened, rolled or otherwise be attached to umbrella edges in order to create an enclosure.
- (xiv) The Development Review Official may permit the use of planters with the material configuration, number, and size to be reviewed at time of application. Placement of planters within sidewalk cafe areas shall be set at a minimum of five (5) feet from the building frontage. Planters shall not block the normal pedestrian flow or impede handicap accessibility on any sidewalk area or street crossing. Planters shall not enclose portions of the sidewalk but may be used as buffers from vehicular traffic. Artificial planting materials (i.e. fake flowers and plants) shall be prohibited within planters. It shall be the permittee's responsibility to immediately remove planters, upon written and/or verbal notice from the City Manager, in case of emergency or other circumstances as provided in this division. Maximum size of planters shall not exceed the following:
 - (A) Rectangular planters: A maximum thirty (30) inches long, by fifteen (15) inches wide by twenty (20) inches high.
 - (B) Round planters: A maximum of twenty-four (24) inches diameter by twenty-four (24) inches high.
 - (C) Planters twenty (20) inches or higher shall be on rollers or on rolling bases.
 - (D) The combination of planters and plant height should not exceed a table height of thirty-four (34) inches.
- (xv) All Outdoor Dining facilities on public rights-of-way shall be located at the same elevation as the adjoining sidewalk.
- (xvi) Outdoor Dining shall not interfere with the free and unobstructed public access to any bus stop, crosswalks, public seating areas and conveniences, street intersections, alley, service easements, handicap facilities, access to adjacent commercial establishments, fire hydrants and/or other City utilities.
- (xvii) Plants Outdoor Dining shall comply with the standards set forth in Sections 5-119(A)(7) and (B)(10) of the City of Coral Gables Zoning Code.
- (xviii) The Development Review Official may impose conditions, accept proffers and establish bonus programs to address potential harms and nuisances to serve the health, safety and welfare, and in particular, to ensure compatibility of the various uses within the right-of-way and adjoining areas.
- (xix) Plants shall be properly maintained. Distressed plants shall be promptly replaced. Plant fertilizers which contain material that can stain the sidewalks shall not be allowed. Water drainage from any plants onto the

sidewalk shall not be allowed. Potted plants shall have saucers or other suitable systems to retain seepage.

- b. Private Property. For locations within the District not listed in Section 4.a. above, the Zoning Code provisions for Outdoor Dining on private property shall apply. For nonrestaurant facilities within the District not fronting Miracle Mile or Giralda Plaza, that have been issued a retail beverage or retail liquor store license pursuant to section 6-4 of the City Code, Outdoor Seating is permitted as a conditional use, if approved under the provisions of Article 3, Division 4, and subject to the standards in this Section and all other applicable regulations. Any conditional use for Outdoor Seating on private property within the District must at a minimum comply with the standards, criteria, and conditions set forth in this Section for Outdoor Dining and any other applicable requirements. The non-restaurant facility shall at all times be in compliance with all state and local regulations, including, without limitation, any state alcohol licensing requirements. The City Commission may impose additional appropriate conditions to protect the public health, safety, and welfare. The conditional use approval for Outdoor Seating on private property granted under this Section may be renewed administratively if (1) there are no proposed changes to the Outdoor Seating; (2) the nonrestaurant facility is in compliance with all requirements of its retail beverage or retail liquor store license under section 6-4 of the City Code and all requirements of its conditional use approval for Outdoor Seating; and (3) no code enforcement citations have been issued to the nonrestaurant facility. Otherwise, renewal of the conditional use must be reviewed and approved by the City Commission and may be subject to the provisions of Article 3, Division 4, at the discretion of the City Commission. Any application and permit fees applicable to Outdoor Dining shall apply to conditional use applications and permits for Outdoor Seating.
- c. Public Right-of-Way. For locations within the District not listed in Section 4.a. above, the Zoning Code provisions for Outdoor Dining in the public right-of-way shall apply. When Outdoor Dining is proposed on public and private property then both requirements for outdoor dining on public and private property shall apply.
- d. A permit used for Outdoor Dining in the public right-of-way shall be issued for a period of two (2) years, renewable biannually by the Division of Planning and Zoning. Such permit shall be paid on a bi-annual basis.
- e. Outdoor Dining shall be restricted to the frontage of the abutting business property frontage line. The utilization of space extending no more than fifty (50) linear feet on either side of the property frontage line may be authorized and transferable subject to a written consent between the neighboring Property Owners and/or Tenants in front of whose businesses the Outdoor Dining service shall occur. Said written consent must stipulate that, if any of the two (2) properties go Out-of-Business, the Property Owners and the Tenants must forfeit their written consent and the individual property/frontage bundle of rights shall revert back to the original state. Should obstacles in the public ROW prohibit a restaurant from being able to provide outdoor

dining in front of, or adjacent to, their place of business, the Development Review Official may permit the restaurant to use other underutilized outdoor dining areas in close proximity to the restaurant, subject to the same written consent requirements provided above.

f. The City Manager may adopt administrative regulations to implement and enforce the standards for outdoor dining and outdoor seating set forth herein.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. 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.

SECTION 5. It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida; and that the sections of this “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. If the Official Zoning Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS EIGHTH DAY OF OCTOBER, A.D., 2019.

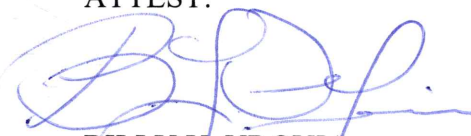
(Moved: Keon / Seconded: Mena)

(Yeas: Fors, Jr., Keon, Lago, Mena, Valdes-Fauli)

(Unanimous: 5-0)

(Agenda Item: F-3)

ATTEST:




BILLY Y. URQUIA
CITY CLERK

APPROVED:



RAUL VALDES-FAULI
MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



MIRIAM SOLER RAMOS
CITY ATTORNEY