

Agenda Item 14
Meeting of 2/17/16

ORDINANCE 16-13764

AN ORDINANCE RELATING TO OUTDOOR DINING; AMENDING SECTION 56-126 OUTDOOR DINING, LIMITING THE ALLOWANCE FOR DINING NOT DIRECTLY ABUTTING A STOREFRONT AND INCREASING THE REQUIREMENTS FOR SIDEWALK CLEARANCE; APPROVING TEXT AMENDMENT PETITION 16-T2; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, following a public hearing on January 13, 2016, the Planning Advisory Board has considered the recommendation of staff and public input and has recommended by a vote of 6 to 0 that Text Amendment 16-T2 be approved; and

WHEREAS, after considering the recommendation of the Planning Advisory Board sitting as the local planning agency and City staff, following a public hearing on the subject, and providing the public an opportunity to comment, the City Council has determined that it is in the best interest of the City to approve Text Amendment 16-T2;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That the Section 56-126, Outdoor Dining, of the Code of Ordinances, City of Naples, Florida, is hereby amended to read as follows (underline indicating additions and ~~strikethrough~~ indicating deletions):

Sec. 56-126. - Outdoor dining.

(a) Generally. Outdoor dining, adjacent to and a part of an established conventional or carry out restaurant or retail establishment serving prepared food is permitted in all commercial zoning districts, unless otherwise regulated through other zoning districts. Outdoor dining not associated with a conventional restaurant shall not serve or provide alcoholic beverages.

(b) Definitions. As used in this section:

Outdoor dining means an area adjacent to and a part of an established conventional or carry out restaurant or retail establishment serving prepared food, providing tables, chairs or benches, where patrons may consume food and beverages.

Outdoor dining permit means an annual permit issued by the city after council approval or administrative approval for outdoor dining has been granted based on the conditions outlined herein.

(c) Permit.

(1) Application for outdoor dining will be made to the city manager. All applications will be renewed and issued administratively through the city

manager except in the following instances when city council review will be required:

- a. Outdoor dining on public property exceeding 100 square feet in area for a single establishment;
 - b. Outdoor dining on public property that is not directly abutting the storefront of the restaurant which it serves requires City Council approval;
 - c. Outdoor dining on public property abutting U.S. 41;
 - d. The establishment or expansion of outdoor dining facing a residential zoning district.
- (2) If approved, a permit for outdoor dining will be issued for a period of one year. The permit may be renewed annually by the city manager if the applicant is in compliance with the conditions.
 - (3) An annual administrative fee as set forth in appendix A to this Code will be charged for the issuance of an outdoor dining permit. The annual fee will be required in conjunction with an occupational license.
 - (4) Such permit shall not be transferable in any manner. The permit shall run only with the business and not the land, in the location and configuration approved. A change in the location will require a new permit application. The grant of a permit does not create a vested right in outdoor dining.
- (d) Submittal requirements; criteria for issuance of permit.
- (1) A completed application and the following documents shall be required.
 - a. All plans will include a floor plan, building elevation, setbacks, location of refuse containers, layout of all tables, chairs and other furniture, parking meters, fire hydrants, street furniture, portable signs and pedestrian ingress and egress and dimensioned sketch of the seating area. In addition, photographs, drawings or manufacturers' brochures describing the appearance of the proposed tables, chairs, umbrellas or other objects related to the outdoor dining must be provided.
 - b. In addition, approval from other applicable approving bodies such as, but not limited to, the state alcoholic beverage and tobacco division must be provided.
 - (2) An outdoor dining permit will be issued after review of the following criteria:
 - a. The operation of an outdoor dining area shall not be conducted in such a way as to become a public nuisance and the operation of

such business shall not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets.

- b. The restaurant owner/operator will be responsible for maintaining the outdoor dining area in a clean and safe condition. All trash and litter shall be removed daily. Public sidewalk trash containers cannot be used as a means of disposing of table waste generated by restaurant customers.
- c. Established conventional restaurants with liquor licenses may serve alcoholic beverages in the outdoor dining area in compliance with chapter 6.
- d. Unless otherwise provided in the Code, no additional signage, menu boards or sandwich signs are allowed in the outdoor dining area.
- e. The outdoor dining area's hours of operation shall be no greater than that of the principal restaurant.
- f. Parking requirements shall be three spaces for every 1,000 square feet of outdoor dining area on private property and five spaces for every 1,000 square feet of outdoor dining area on public property. Outdoor dining in the D Downtown District on public or private property shall provide three spaces for every 1,000 square feet. Outdoor dining in the Fifth Avenue South Special Overlay District shall not require additional parking. Outdoor dining which is less than 100 square feet in any district is exempt from providing additional parking.
- g. Outdoor dining areas shall not intrude upon designated components of egress such as exit discharge, exit discharge being defined as that portion of a means of egress between the termination of an exit and a public way. Outdoor dining areas shall not interfere with pedestrian access between tenant spaces.
- h. Outdoor dining areas on public property shall not occupy an area more than 25 percent of the total area of the primary restaurant operation.
- i. Outdoor dining areas on public property shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the café or restaurant.
- j. For outdoor dining on public property there will be maintained a minimum of a five-foot clear distance or 50 percent of the sidewalk width, whichever is greater, free of all obstructions, including umbrellas, chairs and tables, in order to allow adequate pedestrian movement, unless previously exempted by the city manager or the

city council. The five-foot or 50 percent clear area will be measured and maintained when chairs and tables are occupied. The outdoor dining area shall be located adjacent to the building façade, with the five-foot or 50 percent clear pedestrian passage provided between the dining area and the edge of the pavement or landscaping. Umbrellas shall maintain seven feet of vertical clearance from the pavement. Tables and chairs shall be oriented so that chairs pull out parallel to the sidewalk.

- k. No kitchen or bar service equipment shall be located on public property. For outdoor dining on private property all kitchen and bar service equipment used to service the outdoor dining area shall be screened from view and placed so as not to impact adjacent property owners.
- l. It is permissible for an outdoor dining establishment to terminate the operation of the outdoor dining on a seasonal basis without the outdoor dining permit being terminated. During such time that the outdoor dining may not be in operation, all tables, chairs and accessories must be stored inside.
- m. No fencing, railings, plantings or other barriers may be installed or erected to delineate the outdoor seating area in the public right-of-way.

Section 2. Text Amendment Petition 16-T2 is hereby approved.

Section 3. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 5. This ordinance shall take effect immediately upon adoption at second reading.


FIRST READING DECLARED THE 3RD DAY OF FEBRUARY, 2016.


Ordinance 16-13764

Page 5

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 17TH DAY OF FEBRUARY, 2016.

Attest:


Patricia L. Rambosk, City Clerk


John F. Sorey III, Mayor

Approved as to form and legality:


Robert D. Pritt, City Attorney

M:\REF\COUNCIL\ORD\2016\16-13764

Date filed with City Clerk: 2-19-16