

Sec. 82-384. - Permitted sidewalk café frontage; requests for expansions.

- (a) Sidewalk cafés are restricted to the sidewalk frontage of the restaurant to which the permit is issued or, if the restaurant is an ancillary and/or secondary use to another type of business establishment, the sidewalk café shall be restricted to the sidewalk frontage of the building (or portion thereof) of the "primary" business establishment (within which the restaurant is located). Only a restaurant whose premises are on a ground floor adjacent to and fronting the sidewalk may be issued a sidewalk café permit. Sidewalk cafés may be extended into a loading zone fronting a restaurant as provided in subsection (d) below.
- (b) An applicant for a sidewalk café permit may be permitted, upon prior written request by the permittee to the city manager, to extend by a maximum total of 50 feet in the right-of-way on one side and/or the other side of the restaurant to which the permit is issued (of the business establishment where the restaurant is located); the permittee shall make written application to the city manager setting forth the reason(s) for the proposed expansion and provide a site plan showing the proposed expansion. All requests for expansions pursuant to this subsection (b) shall be reviewed by the city manager on a case by case basis. In reviewing such requests, the city manager, in making his determination to approve or deny, shall consider the following:
 - (1) Pedestrian access.
 - (2) Visibility of the front of the adjacent owner's business.
 - (3) Obstructions.
 - (4) Accessibility to the adjacent owner's business by patrons.
 - (5) The city manager, shall solicit input from businesses and property owners on the same block including, without limitation, the immediately adjacent (i.e., next door) business and property owners.
 - (6) The city manager shall provide written notice to the adjacent business establishment (tenant) and property owner on to whose frontage the sidewalk café proposes to expand. The notification shall include the following information: the name and address of the permittee/business establishment requesting the expansion; the approximate location and size of the area requested; and the name and address of the city official and/or employee to forward comments to, and the time period within which to forward said comments (which time period shall be no less than 14 days). Said notice shall be sent, as to the adjacent business establishment (tenant), to the name and address on file with the city for the establishment's occupational license and, for the property owner, to the name and address identified in the records of the Miami-Dade County Property Tax Appraiser's Officer. Any objections not submitted and received by the city within the date provided in the notice shall be deemed waived.
 - (7) The city manager may also consider any history of violations and/or warnings pursuant to section 82-371.

In the event of approval by the city manager to expand a sidewalk café pursuant to this subsection (b), the additional square footage will be computed into the new permit fee.

Notwithstanding the city manager's approval of a sidewalk café expansion pursuant to this subsection (b), in the event that the adjacent business establishment and/or property owner (on to which a sidewalk café has expanded) subsequently elects to apply for a sidewalk café permit to operate a café in front of its premises, that new applicant/permittee shall provide the city manager with notice of such intent stating the applicant's name; the property address; the name of the business establishment and/or the restaurant (of which the café is a part of); and the anticipated opening date. The city will provide the business establishment (tenant) and property owner which is currently expanding into the proposed new applicant/permittee's frontage with a courtesy copy of the notice. Following receipt of said written notice by the city, and provided that the new applicant/permittee obtains a sidewalk café permit, as well as any other required permits and/or licenses for operation of the business establishment and/or restaurant

associated with the proposed new sidewalk café, then the city manager's prior consent for expansion shall terminate, and the city shall provide written notice to the adjacent sidewalk café permittee advising it of such termination, and providing a termination date therefore. The city's notice shall provide the adjacent property owner with at least seven calendar days' notice prior to the effective date of termination of the expansion. Upon the termination date of the city's consent to expansion, the sidewalk café permit and the permit fee will be adjusted accordingly.

- (c) In the case of sidewalk cafés on Lincoln Road, an expansion of a sidewalk café across the centerline of Lincoln Road Mall may also be permitted. The permittee shall make written application to the city manager setting forth the reason for the proposed expansion and provide a site plan showing the proposed expansion. Requests for expansions pursuant to this subsection (c) shall be reviewed by the city manager on a case by case basis. In reviewing such requests, the city manager shall consider the following:
- (1) The applicant/permittee would otherwise be significantly deprived of the use of the right-of-way for which the sidewalk café permit is sought;
 - (2) There are special circumstances and conditions that exist, which were not self-created by the applicant/permittee, and are peculiar to that portion of the right-of-way, and are not generally applicable to other rights-of-way in the immediate area;
 - (3) The granting of the expansion is the minimum that will allow the applicant/permittee's reasonable use of the area for its sidewalk café operations; and
 - (4) The granting of the expansion will not significantly impair the ability of pedestrians on that particular portion of Lincoln Road Mall to walk comfortably from one side of the mall to the other.

In the event of approval by the city manager to expand a sidewalk café pursuant to this subsection (c), the additional square footage will be computed into the new permit fee.

- (d) Loading zones in front of a ground floor restaurant use with sidewalk frontage and a sidewalk café permit may be used as part of an expanded sidewalk café permit area when the street on which the loading zone is located is closed to traffic, provided that the loading zone is within a street area that is regularly closed to traffic during certain days or hours, a minimum of five days each week. All platforms, tables and chairs in the loading zone shall be removed at the close of business each night. A permit modification will be required before use of a loading zone may commence, subject to suspension or revocation at the discretion of the public works director. The fee for the temporary expanded sidewalk café permit area shall be as provided in section 82-383 hereof.

(Ord. No. 2019-4294, § 1, 9-11-19)