

**ORDINANCE 2011-04**

(Zoning Chapter 23 – Amending regulations for alcoholic beverage sales/service)

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; AMENDING THE CONDITIONAL USE REGULATIONS FOR ALCOHOLIC BEVERAGE SALES AND FOR OUTDOOR SEATING AREA; DEFINING CLUB; ALLOWING CLUBS IN VARIOUS ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED** by the City Commission of the City of Lake Wales, Polk County, Florida:

**SECTION 1.**            **Amendment of conditional use regulations for alcoholic beverages**  
**Sec. 23-342 Alcoholic beverage sales** under **CONDITIONAL USE REGULATIONS** is amended as follows:

**Sec. 23-342. Alcoholic beverage sales and service (~~conditional use regulations~~).**

Zoning approval of applications for state alcoholic beverage licenses shall be granted only in accordance with the provisions of this chapter and Chapter 5, Alcoholic Beverages, and with the following conditions:

~~The administrative official is authorized to approve the location of a business or establishment engaged in alcoholic beverage sales provided that said business or establishment meets the requirements of city codes, including this chapter and the requirements of Chapter 5, Alcoholic Beverages. The following zoning classifications shall apply to businesses engaged in alcoholic beverage businesses:~~

- a. ~~*Retail sales:* The retail sale of alcoholic beverages for consumption off-premises is permitted at a legally established “store,” as defined in this chapter. Liquor stores, grocery stores, and other retail establishments selling alcoholic beverages for consumption off premises are classified for zoning purposes as “stores,” provided they hold a valid state alcoholic beverage license for such purpose and are in compliance with the provisions of Chapter 5, Alcoholic Beverages. Retail sales of alcoholic beverages for consumption off-premises is permitted may also be approved as an accessory use, subject to the provisions of section 23-541, Accessory Uses – Nonresidential Properties.~~
- b. ~~*Restaurants:* The sale or service of alcoholic beverages for consumption on premises is permitted at a legally established restaurant, including outdoor service areas, provided the establishment meets the definitions of “restaurant” in this chapter and in Chapter 5, Alcoholic Beverages, and provided the outdoor service area is defined by a fence or other barrier approved by the administrative official. Food service businesses that allow consumption of alcoholic beverages on premises are classified for zoning purposes as “eat in restaurants,” provided the establishment holds a valid state alcoholic beverage license for such purpose and meets the definition of “eat in restaurant” in this chapter and “restaurant” in Chapter 5, Alcoholic Beverages.~~
- c. ~~*Wine and beer bars:* The sale or service of wine and beer for consumption on premises is permitted at a legally established wine and beer bar, including outdoor service areas, provided the establishment meets the definitions of “wine and beer bar” in this chapter and in Chapter 5, Alcoholic Beverages, and provided the outdoor service area is defined by a fence or other barrier approved by the administrative official. Establishments selling wine and/or beer for consumption on premises are classified as “wine and beer bars” for zoning purposes, provided they hold a valid state alcoholic beverage license for such purpose and are in compliance with the provisions of Chapter 5, Alcoholic Beverages, and provided the business floor area of the wine and beer bar~~

shall be not less than one thousand (1,000) square feet in size and not more than five thousand five hundred (5,500) square feet in size.

- d. Clubs: The sale or service of alcoholic beverages for consumption on premises is permitted at a legally established club, provided the establishment meets the definition of “club” in this chapter and the definition of “fraternal or civic organization” in Chapter 5, Alcoholic Beverages.
- e. Outdoor seating areas on public sidewalks: The sale or service of alcoholic beverages by a legally established food or beverage business in an outdoor seating area on a public sidewalk is permitted in the C-1 (downtown) zoning district only upon approval by the city commission. Approval shall be contingent upon compliance with the conditions for an outdoor seating area in this chapter (sec. 23-353 Outdoor seating area). The city commission may place special conditions on the approval and reserves the right to limit the number of establishments providing such service on public sidewalks. In conjunction with the application, the owner or operator of the business shall provide to the city indemnification in a form acceptable to the city and must also secure a policy providing commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) naming the City of Lake Wales as an additional insured. The business shall be responsible for providing notice to its customers that alcoholic beverages may be consumed or possessed only within the public open space approved by the city commission for consumption of such beverages. Approval shall be contingent upon the establishment’s obtaining and holding a valid state alcoholic beverage license for service in the outdoor area.

## SECTION 2.

### **Amendment of conditional regulations for outdoor cafes**

**Sec. 23-353. Outdoor café** under CONDITIONAL USE REGULATIONS is hereby amended and renumbered as follows:

#### **Sec. 23-353. Outdoor cafe seating area.**

The addition of ~~outdoor seating~~ an outdoor seating area (See definition.) to a ~~restaurant~~ an establishment is considered an expansion of the use and must comply with the applicable district regulations and a site plan for the expansion must be approved pursuant to section 23-222. ~~If any seating is proposed on a public sidewalk, approval is required from the city commission upon recommendation of the planning board.~~ The following regulations shall apply:

- a. The number of outdoor seats and tables shall be limited to that number which can be reasonably accommodated in the proposed outdoor seating area, according to the available widths of the associated storefront and sidewalk. ~~Adjacent sidewalk areas, even if not located directly in front of the associated storefront, may be considered on an individual basis, when the affected storefront owner does not object.~~ Clear pedestrian access a minimum of thirty-six (36) inches in width shall be maintained at all times, and no seating or tables shall interfere with ingress/egress of buildings or create an unsafe situation with street traffic for pedestrians. ~~The sidewalk café owner/operator shall remove from the sidewalk and place out of public view any seating or tables when the business is closed, or when an authorized agent of the city makes such a request.~~
- b. ~~Public sidewalks approved as part of any sidewalk café shall be properly maintained for safety and cleanliness by the owner/operator on a daily basis. Litter, dirt, grease, grime and food shall not be permitted to accumulate at any time.~~  
Outdoor seating on public sidewalks – additional requirements
  - 1. Approval by the city commission upon recommendation of the planning board is required for outdoor seating on public sidewalks. (See also regulations on service of alcoholic beverages in outdoor seating areas on public sidewalks in sec. 23-342 and in Chapter 5.)
  - 2. Adjacent sidewalk areas, even if not located directly in front of the associated storefront, may be considered on an individual basis, when the affected storefront owner does not object.

3. The sidewalk café owner/operator shall remove from the sidewalk and place out of public view any seating or tables when the business is closed, or when an authorized agent of the city makes such a request.
4. Outdoor seating shall be properly maintained for safety and cleanliness by the owner/operator on a daily basis. Litter, dirt, grease, grime and food shall not be permitted to accumulate at any time.
- e. 5. An indemnity agreement, available from the administrative official, shall be signed and provided by the ~~sidewalk café~~ outdoor seating owner/operator, along with proof of public liability insurance as approved by the city attorney.
- d. ~~Alcoholic beverages served as part of any sidewalk café shall require city commission approval and shall be limited to those establishments located within the boundaries of the downtown business district. The city commission reserves the right to limit the number of sidewalk cafes providing alcoholic beverage service. In addition to the above requirement for sidewalk cafes, the owner/operator shall provide a State of Florida alcoholic beverage license which indicates the proposed sidewalk area for which approval is requested. Any sidewalk café owner/operator who requests city commission approval of a proposed sidewalk café with alcoholic beverage service prior to obtaining a State of Florida alcoholic beverage license shall not be permitted to operate in such capacity until proof of the state license is provided to the administrative official.~~

**SECTION 3. Amend Table of Permitted and Special Exception Uses**  
**Table 23-421 PERMITTED USES AND SPECIAL EXCEPTION USES IN STANDARD ZONING DISTRICTS** is amended as follows:

Change heading “EDUCATION AND RELIGIOUS” to “EDUCATIONAL AND CULTURAL.”

Under amended heading EDUCATIONAL AND CULTURAL, add Club as a Permitted Use in the C-1, C-2, C-3, and LCI districts and as a Special Exception Use in the C-2R, C-4, C-5, and PF districts.

After “club” add superscript “7.”

After the heading FOOD AND BEVERAGE BUSINESSES add the following:  
(See section 23-342 and Chapter 5 for regulations on alcoholic beverages.)

Under heading “FOOD AND BEVERAGE BUSINESSES” make the following changes:

After the heading “STORES” on same line, amend note as follows:  
(See section 23-342 and Chapter 5 for sale of alcohol regulations on alcoholic beverages.)

After “Bar, wine and beer,” remove asterisk (\*) and add superscript “7.”

After “Restaurant, outdoor café,” remove asterisk (\*) and add superscript “7.”

After “Restaurants, eat-in,” add superscript “7.”

At end of table, in list of footnotes add footnote 7 to read as follows:  
<sup>7</sup> See also sec. 23-353, conditional use regulations for “outdoor seating areas” and sec. 23-342 for conditional use regulations on alcoholic beverages.

Under NOTES at end of table, add

- Outdoor seating for any establishment must meet conditional use regulations in sec. 23-353.

**SECTION 4:**

**Definitions**

**Sec. 23-802. Definitions** is amended as follows:

Add definitions as follows:

Club. A building used for offices meetings, and social events for members of an organization or for private groups, but not open to the general public on a regular basis. Facilities may include a kitchen and dining area. (See also definition of “fraternal or civic organizations” in Chapter 5, Alcoholic Beverages.)

Outdoor seating area. An area intended and approved for use by customers outside of an establishment such as a restaurant, whether the area is located on public or private property. The term includes areas for people to gather whether or not actual seating is provided.

**SECTION 5:**

If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**SECTION 6:**

This ordinance shall become effective upon passage by the City Commission.

CERTIFIED AS TO PASSAGE this 15<sup>th</sup> day of March 2011.

  
Mayor/Commissioner

Attest:

  
City Clerk