

ORDINANCE No. 03-36

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 33, OF THE TOWN CODE; SPECIFICALLY AMENDING SECTION 33-13 REGARDING UNUSUAL USES TO ELIMINATE OUTDOOR DINING AS AN UNUSUAL USE; RENAMING ARTICLE X, "ALCOHOLIC BEVERAGES;" AND ESTABLISHING SECTION 33-151.1, "OUTDOOR DINING," IN ORDER TO PERMIT OUTDOOR DINING SUBJECT TO CERTAIN LIMITATIONS AND APPLICATION PROCEDURES; AMENDING SECTION 33-150 REGARDING ACCESSORY COCKTAIL LOUNGES AND BARS IN RESTAURANTS; AMENDING SECTIONS 33-247 AND SECTION 33-259 TO PERMIT ACCESSORY COCKTAIL LOUNGES AND BARS IN BU-1A AND IU-1 ZONING DISTRICTS, SUBJECT TO THE RESTRICTIONS OF ARTICLE X OF THE TOWN CODE PERTAINING TO ALCOHOLIC BEVERAGES; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 33 "Zoning," of the Code of Miami-Dade County, Florida ("Chapter 33"), currently serves as the Town's Land Development Code (the "Code") pursuant to Article VIII, Section 8.3 of the Town Charter; and

WHEREAS, outdoor dining in concert with a restaurant is only permitted after public hearing and receipt of an unusual use permit; and

WHEREAS, the Code does not permit cocktail lounges and bars in a restaurant in the BU-1A and IU-1 zoning districts; and

WHEREAS, the Town wishes to encourage the establishment of new restaurants and enhance existing restaurants by permitting outdoor dining subject to conditions and administrative oversight; and

WHEREAS, the Town wishes to permit bars and cocktail lounges within a restaurant in the Town's BU-1A and IU-1 zoning districts subject to conditions and administrative oversight; and

WHEREAS, revisions to the Code will accomplish these goals.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. That Section 33-13, "Unusual uses" is hereby amended to read as follows:

Sec. 33-13. Unusual uses.

* * *

(e) *Unusual and new uses.* Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public hearing: Airport; airplane crop dusting field; all zoning applications by State and municipal entities and agencies; amusement rides and enterprises; amusement center (except in BU-1A Zone in which such use is permitted); archery ranges; art galleries and museums (educational and philanthropic) in districts more restrictive than RU-4; auction sales; auto, truck, machinery salvage yards; bathing beach; boat salvage; bombing field, canal excavation, where not a part of C. & S. F. F. C. D. and County secondary canal system; carnivals, circuses; convalescent homes; day camp, day nursery in zone more restrictive than RU-3; dog kennel, dog training track; electric substation; electric power plant; frog farm; garbage and waste dumps; gas distribution system and plant; golf course except in RU-1 and other Districts where the same is a permitted use; golf course clubhouse and incidental uses in all districts more restrictive than the BU-1 District; golf driving range; gypsy camp; heliports; homes of the aged (except group homes and community residential homes where same is a permitted use); homes for dependent children (except group homes and community

residential homes where same is a permitted use); hospitals (not animal hospital) in district more restrictive than RU-4; incinerators; Indian village; institutions for handicapped persons (except group homes and community residential homes where same is a permitted use), including but not limited to incidental related facilities such as workshops, sales of products fabricated therein, residential quarters, educational training facilities; infirmary, commissary, or any one (1) or combination of such related incidental facilities; junkyard; kindergarten in zones more restrictive than RU-3; lake excavation and asphalt plant, concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection therewith; landing field; movie (open air) except as provided in BU-1A Zone; nightclub in BU-2 or more liberal districts; nursing homes; oil and gas well drilling and essential, incidental uses thereto, such as minimum storage facilities; in AU and GU Districts subject to conformance to all applicable Florida State statutes and rules and regulations of the State Board of Conservation and other applicable state rules and regulations; outdoor display; outdoor paint testing laboratory; ~~outdoor patios and table service in connection with restaurants~~; palmist and psychic readers; parking (noncommercial parking in zones more restrictive than in which the use it serves is located); pistol ranges; pony rings; private club in RU-3B and RU-3 and more restrictive districts, including but not limited to AU and GU Districts; private playgrounds and recreational area; except for those allowed pursuant to Section 33-199; public and private utility facilities such as electricity, gas, water, telephone, telegraph, cable TV., and including work centers (repair and storage areas for trucks, heavy equipment, pipe, meters, valves, cable, poles) as accessory uses, and including sewage treatment plants and lift stations and water treatment plants and pumping stations, excluding temporary package water and sewage treatment plants approved by the Environmental Quality Control Board and until December 31, 2008, excluding any telecommunications antenna owned and operated by a telecommunications company providing services to the public for hire attached to any pole or H-frame or lattice structure owned by a utility which is used in and is part of the utility's network for the provision of electric services, provided that (a) equipment appurtenant to the antenna is maintained on the utility pole or structure, (b) the utility pole or structure does not exceed 125 feet in height above ground unless the utility pole or structure is located in an easement or right-of-way which is greater than fifty (50) feet in width or, if less than fifty (50) feet in width, such easement or right-of-way is adjacent to and parallel with road right-of-way which is one hundred (100) feet or greater in width,

Ordinance No. 03-36

and (c) the antenna was attached to the utility pole or structure prior to January 1, 1997; race tracks; retirement villages, including as an accessory use commercial facilities of the BU-1 type; rifle range; rock pits (filling of); rock quarries; shopping center promotional activities; skeet range; subdivision entrance gates and entrance features not conforming to regulations; testing laboratory or plant; tourist attractions; radio and TV transmitting stations; trailer as watchman's quarters; trailers or tourist camp; trap range; water tank and tower; water treatment plant; water use facilities; Wireless Supported Service Facilities except as provided for in Section 33-63.2 and 33-63.3; wood burning barbecue (commercial); zoo (except in public park).

Section 3. That Chapter 33, "Zoning," Article X, "Alcoholic Beverages," is hereby renamed to read as follows:

Article X. Alcoholic Beverages and Outdoor Dining.

Section 4. That Section 33-151.1, "Outdoor Dining" is hereby established to read as follows:

Section 33-151.1 Outdoor dining.

(a) Permitted Accessory Use. Outdoor dining shall be permitted as an accessory use in conjunction with a restaurant as defined by Section 33-1(88) of the Code and subject to the following restrictions:

(1) The restaurant shall be a permitted use in the subject zoning district.

(2) The outdoor dining area shall be managed, operated and maintained as an integral part of the immediately adjacent restaurant.

(3) The outdoor dining area shall not reduce required parking or landscaping for the site.

(4) The outdoor dining area shall be specifically delineated on the site plan and building permit plan and included in calculations for required parking as set forth in Section 33-124(i)(1) of the Code.

(5) The applicant shall provide a landscaping plan for the outdoor dining area where required by Chapter 18 of the Code.

(6) The amount of area designated for outdoor dining shall not exceed forty percent (40 %) of the dining area within the restaurant. The amount of seating in the outdoor dining area shall not exceed forty percent (40 %) of the seating provided in the restaurant.

(7) Outdoor dining shall be restricted to the sidewalk frontage of the licensed restaurant to which the permit is issued or within the sidewalk frontage of the building where the validly licensed restaurant is located. The area of the permit may also extend by a maximum total of fifty (50) feet on either side of the permittee's business subject to the conditions provided in this Section.

(8) No outdoor dining shall be placed closer than 10 feet to a side or rear property line.

(9) Permits shall not be issued where the tables and chairs would be placed within five feet of bus stops, taxi stands, fire hydrants, alleys, bike racks, or any type of public street furniture or fixtures.

(10) No tables, or chairs, umbrellas, fixtures, or other permissible objects shall be permitted within five (5) feet of a pedestrian crosswalk or corner curb cut.

(11) Outdoor dining shall be located in such a manner that a distance of not less than six (6) feet is maintained at all times as a clear and unobstructed pedestrian path, except where the pedestrian path leads directly into the place of business. For the purpose of the minimum clear path, parking meters, traffic signs, trees and all similar obstacles shall constitute obstructions.

(12) Tables, chairs, umbrellas, fixtures, and other permissible objects, including planters, shall be stored indoors when the restaurant is closed.

Ordinance No. 03-36

(13) Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material.

(14) The Town Manager or his or her designee may require the temporary removal of outdoor dining areas when street, sidewalk, right-of-way, or utility repairs necessitate such action.

(15) The Town Manager or his or designee may cause the immediate removal or relocation of all or parts of the outdoor dining areas in emergency situations or for safety considerations.

(16) Tables, chairs, umbrellas and other permissible objects provided within an outdoor area shall be maintained with a clean and attractive appearance and shall be in good repair at all times.

(17) All tables, chairs, umbrellas, plants, planters, or any other items or parts of items shall be readily removable, and shall not be physically attached, chained or in any other manner affixed to any structure, tree, post, sign or other fixture, curb or sidewalk within or near the permitted area.

(18) No food preparation, plastic food displays, food storage, or refrigeration apparatus or equipment, or fire or fire apparatus or equipment, shall be allowed in the outdoor dining area. However, space heaters are permitted provided that they are an outdoor approved type, are located in accordance with any manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.

(19) No outside public address system shall be permitted. Un-amplified music shall be permitted in the outdoor dining area subject to compliance with Sections 21-28 and 21-28.1 of the Town Code.

(20) The seating of patrons in the outdoor dining area shall only be permitted between the hours of 7:00 AM to 12:00 AM.

(21) No signage shall be permitted on any outdoor furniture, umbrellas or fixtures.

(22) Blinking and flashing type lighting shall be prohibited in the outdoor dining area.

(b) Certificate of Use and Occupancy. The Certificate of Use and Occupancy for such establishment shall reflect whether or not outdoor dining is permitted. The Certificate of Use and Occupancy shall be automatically renewable annually by the building department upon compliance with all terms and conditions, including, but not limited to the maintenance of the facility in accordance with the approved plans.

(c) Plan approval. Any request for outdoor dining shall be reviewed and approved administratively by the building department.

(1) Application Forms. The building department shall make available application forms for the review of outdoor dining.

(2) Content. An outdoor dining application shall be accompanied by a site plan and building permit plans delineating those areas and structures on the property to be utilized for outdoor dining. The building department may require additional information from the application where it is deemed necessary.

(3) Plan Review. The building department and appropriate staff shall review the site plan and building permit plans to determine whether the outdoor dining area complies with all applicable life safety codes and with the conditions set forth in Section 33-151.1(a) above.

(4) Modification to Previously Approved Plans. Despite the express terms of any prior County or Town zoning approval, a previously approved site plan may be modified administratively by the building department solely for the purpose of delineating areas for outdoor dining. An application for a modification shall be filed in the same manner as set forth in Section 33-15.1(c) above. However, revisions to the approved site plan shall not in any way deviate from the previously approved site plan with the sole exception of delineating the outdoor dining area and providing for revised parking and landscaping calculations.

(5) Zero Front Setbacks Permitted Upon Public Hearing. In no event shall the provision of outdoor dining create a zero front setback without first having been reviewed and approved at a public hearing. Said setback shall be shown to be compatible with adjoining uses as defined by Section 33-302(d).

Section 5. Section 33-150 of the Code of the Town of Miami Lakes is hereby amended

to read as follows:

Sec. 33-150. Location of establishments.

* * *

(E) *Exceptions to spacing and distance requirements.* The restrictions and spacing requirements set forth in subsections (A) and (B) above shall not apply:

* * *

(4) ~~[[COCKTAIL LOUNGES IN RESTAURANTS IN SHOPPING CENTER IN BU 2 DISTRICT. To cocktail lounge bars (including package stores) in restaurants located in a shopping center in a BU 2 or more liberal district containing net ground building area (including parking) of not less than fourteen (14) acres under one (1) ownership of title with an approved plan showing 200,000 square feet of building area and improved by not less than seventy five thousand (75,000) square feet of floor area thereon, with facilities for parking not less than two hundred fifty (250) vehicles, provided such restaurant contains all necessary equipment and supplies for and serves full course meals regularly, and have accommodations for service of two hundred (200) or more patrons at tables, and provided the restaurant occupies more than four thousand (4,000) square feet of floor space. Only one (1) such cocktail lounge bar will be permitted in the shopping center, and such restaurant use shall be at least five hundred (500) feet from any church or school measured as otherwise provided in this section. Before any such cocktail lounge bar will be permitted the required floor area of seventy five thousand (75,000) square feet and required parking for two hundred fifty (250) vehicles in the shopping center must be constructed. The cocktail lounge bar in the restaurant structure shall not have outside entrances and the lounge and package store shall be so located that there is no~~

~~indication from the outside of the structure that the cocktail lounge and package store are within the structure.]]~~

CERTAIN COCKTAIL LOUNGE-BARS IN RESTAURANTS.
Cocktail lounge-bars as an accessory use in restaurants located in any IU-1 or BU-1A or more liberal BU Districts shall be permitted subject to the following conditions:

- (a) the restaurant occupies no less than four thousand (4,000) square feet of gross floor space, and has accommodations for service of at least two hundred (200) or more patrons at tables;
- (b) the restaurant prepares and serves fully cooked meals daily and contains full kitchen facilities, meaning commercial grade burners, ovens, range hood(s) and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant, and provided that the restaurant shall be prohibited from advertising itself as a bar, cocktail lounge-bar, saloon, nightclub or similar type of establishment;
- (c) that once the restaurant use is terminated, the cocktail lounge use will automatically terminate;
- (d) that the cocktail lounge-bar in the restaurant structure shall not have separate outside patron entrances, provided, however, a fire door exit shall be permitted, when the same is equipped with panic-type hardware and locks and is maintained in a locked position except in emergencies; and provided the cocktail lounge-bar shall be so located that there is no indication from the outside of the structure that the cocktail lounge-bar is within the structure;
- (e) that the accessory cocktail lounge-bar is no larger than fifteen (15) percent of the gross square footage of the restaurant;
- (f) that the alcoholic beverages are served for on-premises consumption only; and
- (g) that the operating hours for the cocktail lounge-bar shall not extend beyond the permitted hours of operation for the restaurant.

* * *

Section 6. Section 33-247 of the Code of the Town of Miami Lakes is hereby amended as follows:

Sec. 33-247. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, maintained or occupied for any purpose in any BU-1A District, except for one or more of the following uses:

* * *

(37.2) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with Article X, Alcoholic Beverages and Outdoor Dining, of this code.

* * *

Section 7. Section 33-259 of the Code of the Town of Miami Lakes is hereby amended as follows:

Sec. 33-259. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise provided herein, in IU-1 District, excepting for one (1) or more of the following:

* * *

(67.1) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with Article X, Alcoholic Beverages and Outdoor Dining, of this code.

Section 8. Repeal of Conflicting Provisions. All other provisions of the Code of Miami-Dade County as made applicable to the Town by Article VIII, Section 8.3 of the Town Charter which are in conflict with this Ordinance are hereby repealed.

Section 9. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 10. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Miami Lakes Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 11. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on first reading. The motion was seconded by Councilmember Simon and upon being put to a vote, the vote was as follows: 6-0-1 absent

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Absent
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

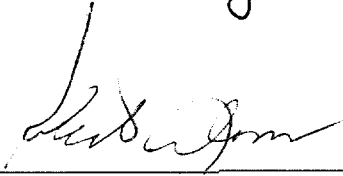
PASSED AND ADOPTED on first reading this 22nd day of **May, 2003**.

The foregoing Ordinance was offered by Councilmember _____,

who moved its adoption on second reading. The motion was seconded by Councilmember _____, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	_____
Councilmember Robert Meador, II	_____
Councilmember Michael Pizzi	_____
Councilmember Nancy Simon	_____
Councilmember Peter Thomson	_____
Vice Mayor Roberto Alonso	_____
Mayor Wayne Slaton	_____

PASSED AND ADOPTED on second reading this 12th day of June, 2003.




 ROBERTO ALONSO
 VICE MAYOR

ATTEST:



 BEATRIS M. ARGUELLES, CMC
 TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



 WEISS, SEROTA, HELFMAN, PASTORIZA,
 GUEDES, BONISKE & COLE, P.A.
 TOWN ATTORNEY