

Introduced by: Council Member Cory Nichols
1st Reading: April 5, 2021
2nd Reading: April 19, 2021

ORDINANCE NO. 2021-8165

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, TO AMEND AND RETITLE CODE OF ORDINANCES CHAPTER 10, ARTICLE V, "BUILDING AND FIRE CODE BOARD OF APPEALS;" PROVIDING FOR ADOPTION OF RECITALS AND LEGISLATIVE FINDINGS, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Jacksonville Beach ("City") has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes; and

WHEREAS, the current City Code of Ordinances Chapter 10, "Fire and Life Safety," Article V, "Building and Fire Code Board of Appeals," was created in 2020 through Ordinance No. 2020-8153 in order to comply with the then current edition of the Fire Prevention and Life Safety Code to create a Fire Code Board of Appeals; and

WHEREAS, currently the Fire Prevention and Life Safety Code does not require that municipalities provide a Board of Appeals to review Fire Marshal decisions, as long as there is some established means and due process in place to appeal a Fire Marshal fire code decision; and

WHEREAS, it is optional to maintain a Board of Appeals to review Fire Marshal fire code violation decisions. There have been no appeals of the Fire Marshal's decisions in almost 20 years. The Fire Marshal finds that the Board has not been needed while adequate alternative methods for appeals are available, and it has been very difficult to find qualified candidates to serve on the Board; and

WHEREAS, the Fire Marshal and City Attorney suggest that City Code of Ordinances Chapter 10, Article V, "Building and Fire Code Board of Appeals," be amended with a more simple alternative which provides adequate means and process for appealing Fire Marshal fire code violation decisions; and

WHEREAS, the Fire Marshal and City Attorney have created a purpose, scope, and process and procedure for addressing appeals of the Fire Marshal fire code violation decisions, which are similar to the processes and methods previously in place; and

WHEREAS, the City Council hereby finds that this Ordinance serves a legitimate government purpose, it is a permissible exercise of the City's powers and authority, and benefits the public health, safety, and welfare of the citizens, residents, and guests of the City of Jacksonville Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. RECITALS AND LEGISLATIVE FINDINGS. The above recitals and legislative findings are ratified, correct, and made a part of this Ordinance.

SECTION 2. CHAPTER 10, ARTICLE V, SECTION 10-5.01 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:¹

CHAPTER 10 – FIRE AND LIFE SAFETY

ARTICLE V. – ~~BUILDING AND FIRE CODE BOARD OF APPEALS OF FIRE MARSHAL’S~~ FIRE CODE INTERPRETATIONS

Sec. 10-5.01. – ~~Creation Purpose.~~

~~There is hereby created and established a board to be known and designated as the “Building and Fire Code Board of Appeals.” To provide an opportunity to grieve, appeal, and establish appellate due process for individuals and businesses who believe a fire code has been wrongly interpreted or that an improper decision has been rendered by the Fire Marshal’s office concerning the fire code as applied to their property.~~

SECTION 3. CHAPTER 10, ARTICLE V, SECTION 10-5.02 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS.

Sec. 10-5.02. – ~~Powers and duties~~ Scope and procedures.

(a) ~~The board of appeals shall provide reasonable interpretation of the provisions of Chapter 10, Article 111, Fire Prevention and Life Safety of the Code for the City of Jacksonville Beach and the FFPC as adopted thereby and issue rulings on appeals of the decision of the fire official and building official of the city.~~ It is the intent of the Fire Marshal’s Fire Inspection/Code Enforcement program to gain voluntary compliance through the education of individuals, building operators, and contractors. In some circumstances, individuals may disagree with the Fire Marshal’s interpretation of the fire code. The process created by this section provides for an appeals process that is available to the aggrieved party.

(b) ~~The rulings by the board of appeals shall be consistent with the letter and intent of the code as adopted in Chapter 10, Article 111, Fire Prevention and Life Safety of the Code for the City of Jacksonville Beach and the FFPC.~~ When an individual believes the fire code has been interpreted incorrectly, they are to submit written notice to the Fire Marshal by hand delivery, professional courier, or U.S. certified mail, return receipt requested, to the Fire Marshal’s Office in the City of Jacksonville Beach City Hall. Within 10 days of receipt of the notice, the Fire Marshal and the aggrieved party shall meet and review the options available to the aggrieved party/

¹ ~~Strikethrough~~ text indicates deletions, underline text indicates additions.

complainant to achieve compliance with the fire code. If a resolution cannot be reached at this meeting, the Fire Marshal, with agreement of the Building Operator/Owner, may employ a fire code consultant to review the dispute and decision(s) at issue and make an independent recommendation to resolve the matter. Also, the State Fire Marshal's Office and National Fire Protection Association may be used in the appeal decision making process and resolution to the appeal.

In no circumstances will the appeal be allowed to cause a violation that jeopardizes life safety to go uncorrected. Every effort is to be extended to gain voluntary compliance. If compliance cannot be gained, the City Special Magistrate process will be utilized for enforcement.

~~(c) — The board shall hear appeals regarding the interpretations of the FFPC and/or the Florida Building Code by the fire official and/or building official.~~

~~(d) — If the decision of the fire official and the building official is to apply the provisions of either the Building Code or the Fire Prevention Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable.~~

~~(e) — The board of appeals shall not have the authority to waive the requirements of the Florida Building Code, Chapter 10, Article 111, Fire Prevention and Life Safety of the Code for the City of Jacksonville Beach, or the FFPC.~~

~~(f) — The board of appeals decisions shall not be precedent setting.~~

SECTION 4. CHAPTER 10, ARTICLE V, SECTIONS 10-5.03 THROUGH 10-5.08 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, ARE HEREBY DELETED IN THEIR ENTIRETY.

SECTION 5. CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6. SEVERABILITY. It is the intention of the City Council that if any section, subsection, clause or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance.

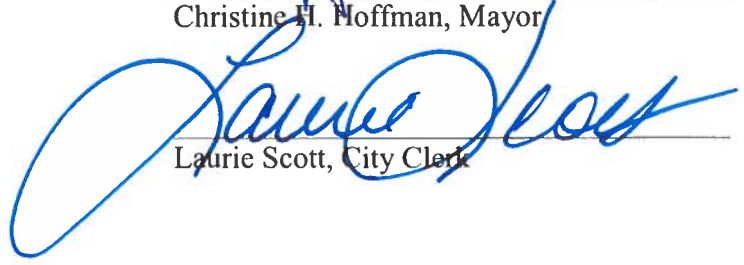
SECTION 7. CODIFICATION. The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances, and it shall replace the current Chapter 10, Article V in the City Code.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect upon final reading and approval by the City Council for the City of Jacksonville Beach.

AUTHENTICATED THIS 19 DAY OF April, A.D., 2021.



Christine H. Hoffman, Mayor



Laurie Scott, City Clerk