

Introduced by: Council Member Chris Hoffman  
1st Reading: November 2, 2020  
2nd Reading: November 16, 2020

**ORDINANCE NO. 2020-8152**

**AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, CITY COUNCIL, CREATING SECTION 28-11 "REGULATION OF COMMERCIAL MOTOR VEHICLE PARKING" IN CHAPTER 28, ARTICLE I, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES TO REGULATE PARKING OF COMMERCIAL MOTOR VEHICLES ON SPECIFIC ROADWAYS IN THE CITY'S DOWNTOWN BUSINESS DISTRICT; PROVIDING FOR 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, Chapter 166, Florida Statutes, and Section 316.008, Florida Statutes; and

**WHEREAS**, the City's downtown business district area ("downtown district") has many stores, hotels, restaurants, bars, businesses, and other commercial establishments that regularly receive goods and merchandise deliveries from commercial, freight, and delivery motor vehicles; and

**WHEREAS**, for purposes of this Ordinance, the downtown district consists of the areas bordering or within the following roadways: (a) on 1st Street North between Beach Boulevard and 6th Avenue North; (b) on 2nd Street North between Beach Boulevard and 4th Avenue North; (c) on 4th Avenue North between 3rd Street North and 1st Street North; and (d) the end zones east of 1st Street North at 2nd Avenue North, 3rd Avenue North, and 6th Avenue North; and

**WHEREAS**, the downtown district includes numerous public parking zones, and it is a popular area for citizens, guests, and tourists of the City to walk, ride bicycles, patronize local establishments, socialize, attend entertainment events, and access the beach; and

**WHEREAS**, the downtown district is heavily traveled by pedestrians, bicycles, and motor vehicles, so safe pedestrian travel and movement of traffic in the downtown district is a primary public safety objective of the City; and

**WHEREAS**, the City acknowledges that downtown district businesses must receive commercial deliveries on a frequent and regular basis in order to provide quality goods, merchandise, and services to patrons; and

**WHEREAS**, Section 316.008(1) (a) and (g), Florida Statutes, empowers the City to exercise its police powers to regulate or prohibit stopping, standing, or parking on streets, and to restrict the use of streets within its jurisdiction; and

**WHEREAS**, Section 316.008(1)(n), Florida Statutes, also empowers the City to prohibit and regulate the use of heavily traveled streets by any class and kind of traffic found to be incompatible with the normal safe movement of traffic; and

**WHEREAS**, Section 316.1945, Florida Statutes, makes it illegal to stop, stand, or park a vehicle on a sidewalk, within an intersection, on a crosswalk, on a bicycle path, and at any places where traffic control devices prohibit stopping; and

**WHEREAS**, pursuant to Section 316.008(2), Florida Statutes, the City, through its duly authorized officers, has nonexclusive jurisdiction over the prosecution, trial, adjudication, and punishment of violations of traffic and parking regulations when a violation occurs within the City and the person so charged is charged by a City police officer; and

**WHEREAS**, Section 316.003, Florida Statutes, allows a municipality to use its currently appointed Special Magistrate to serve as the local hearing officer for traffic and parking infraction enforcement; and

**WHEREAS**, the City Community Redevelopment Agency, Police Department, and Planning and Development Department recommend that it serves a legitimate public purpose and the public health, safety, and welfare to regulate and prohibit commercial, freight, and delivery motor vehicles from parking on certain streets in the downtown district; and

**WHEREAS**, the City Council hereby finds that this Ordinance serves legitimate government purposes and is in the best interests of the public health, safety, and welfare of the citizens 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. THAT THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED BY ADDING A SECTION, TO BE NUMBERED SEC. 28-11 OF CHAPTER 28 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES,” WHICH SAID SECTION SHALL READ AS FOLLOWS:**

Section 28-11. Restrictions and regulations of commercial motor vehicles in the downtown business district.

- (1) Purpose. The purpose of this section is:
  - a. to regulate parking of commercial motor vehicles (as defined herein) engaged in the delivery or receipt of cargo, goods, merchandise, or transport of passengers in the core downtown district area of the City, and

- b. to provide permissible areas and certain avenues for these vehicles to park in order to prevent the blockage of vehicular, pedestrian, and bicycle traffic on certain portions of 1<sup>st</sup> Street North and 2<sup>nd</sup> Street North in order to improve public safety and normal, safe movement of traffic in those areas.

(2) Definitions. The following words, terms, and phrases when used in this section shall have the meanings ascribed to them:

Commercial motor vehicle means any self-propelled or towed vehicle used on the public roadways in commerce to transport passengers or cargo, if such vehicle:

- a. Has a gross vehicle weight rating of 10,000 pounds or more; or
- b. Is designed and used to transport more than 15 passengers, including the driver, or used as a commercial tour bus; or
- c. Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. Ch. 51, et seq.); or
- d. Is used to transport and deliver or receive freight, foods, beverages, materials, merchandise, parcels, furniture, office goods, or other commercial products and goods; or
- e. Is a Semi-trailer truck, tractor truck, or truck with two or more rear axles, as defined in Section 316.003, Florida Statutes.

Delivery means any delivery or receipt of goods or merchandise or passengers by a commercial motor vehicle which is designed or operated for the purpose of transporting goods, merchandise, or passengers.

(3) Restrictions. Except as provided in this section, it shall be unlawful for any commercial motor vehicle to stop, stand, or park in order to deliver or receive cargo, goods, merchandise, or passengers at any time on:

- a. 1<sup>st</sup> Street North between Beach Boulevard and 7<sup>th</sup> Avenue North.
- b. 2<sup>nd</sup> Street North between Beach Boulevard and 4<sup>th</sup> Avenue North.
- c. 4<sup>th</sup> Avenue North between 3<sup>rd</sup> Street North and 1<sup>st</sup> Street North.
- d. The end zones east of 1<sup>st</sup> Street North at 2<sup>nd</sup> Avenue North, 3<sup>rd</sup> Avenue North, and 6<sup>th</sup> Avenue North.

(4) Exceptions. The restrictions of this section shall not apply to a mail truck, or any private mail, parcel, or package courier truck, and other trucks in the restricted areas, including government trucks; public service, public works, and public utilities trucks; official emergency, police, ocean rescue, and fire rescue vehicles; construction trucks servicing an adjacent construction site; and trucks and vehicles temporarily being used for a permitted special event. To qualify as an adjacent construction site, the property where construction is underway must have a current and valid building permit issued by the City. This exception only applies to vehicles and equipment actively engaged in such construction. Those construction vehicles and equipment must be in use to perform lawful construction work upon the premises, including immediate pickup or delivery service. Trucks and vehicles being used for a special event means an event, including but not limited to, exhibitions, celebrations, festivals, shows, and other activities that are permitted or

authorized by the City. The driver of a commercial passenger vehicle or tour bus may stop temporarily at a place marked as a freight curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter, or about to enter, such zone. The restrictions of this section shall not apply to any vehicle or driver that is providing transportation service to a disabled or handicapped person, provided that if it is necessary that such vehicle briefly use such restricted area, the vehicle must promptly be moved from the restricted area as soon as possible after receiving or unloading the disabled or handicapped person. The driver of such disabled or handicapped transportation service must first make all reasonable attempts to utilize non-restricted parking and loading areas or zones to provide such services before using the restricted area.

(5) Waiver of Restrictions. The City Manager may waive the restrictions of this section for an emergency, special events, or when otherwise deemed necessary due to the existence of a temporary special circumstance as determined by the City Manager.

(6) Enforcement. Violation of any provision or regulation of this section may be enforced by any City of Jacksonville Beach Police Department law enforcement officer. Violation of any provision, restriction, or regulation of this section shall be considered a noncriminal local traffic infraction and enforced via a parking violation citation issued by the City of Jacksonville Beach Police Department. Citations issued for violation of any provision, restriction, or regulation of this section shall be enforced in proceedings under the Special Magistrate hearing procedures of Chapter 2, Article VI of the City Code of Ordinances and are solely within the power, authority, and jurisdiction of the City's Special Magistrate. Citations issued shall be provided to the driver of the vehicle that is in violation. The City's Special Magistrate shall have jurisdiction and authority to hold hearings for contests to parking citations, receive and evaluate evidence, to make a determination based upon the preponderance of the evidence as to whether the parking violation(s) listed in the citation were committed, and impose fines and fees against the violator consistent with this section. The decision of the Special Magistrate shall be the final action by the City. Formal rules of evidence shall not apply at the hearing and any relevant evidence may be admitted as deemed by the Special Magistrate. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded to both parties.

(7) Parking Citation Form. The parking citation form shall contain language providing notice of the following:

- a. The type of violation and amount of penalty imposed by this section.
- b. A description of the vehicle, its license plate number, and its vehicle identification number, if reasonably accessible.
- c. The procedures to be followed in either paying the citation or, in the alternative, electing not to pay such citation and instead requesting a hearing before the Special Magistrate concerning the parking violation.
- d. The penalty for failure to comply with directions contained on the citation.
- e. Inform the alleged violator that he/she has 30 days from the date of the citation either to contest the citation by requesting a hearing before the Special Magistrate or to pay the fine as indicated on the citation.

- f. Inform the alleged violator that if he/she fails to either pay the fine or request a hearing before the Special Magistrate within 30 days that they may be held in contempt by the Special Magistrate and that the Special Magistrate may impose double the citation fee plus costs against the violator.
- g. Inform the alleged violator that any person who fails to pay the civil penalty within the time allowed by the Special Magistrate will be deemed to have been convicted of the parking ticket violation, and the Special Magistrate will take appropriate measures to enforce the collection of the fine.

(8) Hearing. If the alleged violator elects to not pay the citation fine and opts to request a hearing before the Special Magistrate, then the violator must provide written notification of such request to the City of Jacksonville Beach Police Department and the City Attorney, no later than 30 days from the date of the citation. Failure to timely submit the written request shall constitute waiver of the hearing option by the alleged violator and the City may proceed with enforcement and collection of the penalty. Upon receipt of the request for a hearing, the City Clerk's office shall issue a notice of hearing date to the person who requested the hearing. Any person who requests a hearing and does not appear in accordance with the notice shall be sent a notice by the Police Department to pay within 10 days the doubled fine plus \$10.00 for the cost of administrative services. Pursuant to Section 316.1967, Florida Statutes, after the requested hearing, the Special Magistrate shall make a determination as to whether a parking violation has been committed and may impose a fine in accordance with this section and Florida law, plus court costs. Pursuant to Section 316.1967(4), Florida Statutes, an election to request a hearing constitutes a waiver of the right to pay the penalty indicated on the parking citation, and the Special Magistrate, after the hearing and upon making a determination that a parking violation has been committed, may impose a fine, plus court costs for each parking violation.

(9) Failure to respond to citation; failure to elect to pay fine or request hearing. Vehicle owner's liability.

- a. If the alleged violator fails to respond to the citation in a manner allowed pursuant to this section, by paying the fine or requesting a hearing and then following the Special Magistrate's mandate, the Police Department shall notify the registered owner of the vehicle of the citation's issuance by mailing notice to the owner at the address given on the motor vehicle registration. Such notice shall be sent by certified mail and shall inform the registered owner concerning the nature and location of the parking violation and shall require payment of the prescribed fine within 30 days after receipt of such notice. Mailing the notice to the registered address constitutes notification. If the notice is returned because the person to whom it was addressed refused to accept the notice, the notice is considered served. Upon notification, the registered owner or registered lessee shall comply with this section, the Special Magistrate's directives, and the issued citation. Violation fees must be paid at the City of Jacksonville Beach Police Department or at the utility billing office on the first floor of the City of Jacksonville Beach City Hall.

- b. Upon notification, the owner may request a hearing before the Special Magistrate within 30 days of receipt of the notification. The request for hearing must be made in writing to the City of Jacksonville Beach Police Department and the City Attorney. In which case, the City Clerk's office shall issue a notice of hearing date to the person that requested the hearing.
- c. The owner of a vehicle is responsible and liable for payment of the parking ticket violation unless the owner can furnish evidence to the Special Magistrate that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within 30 days after notification of the parking violation, to furnish to the appropriate law enforcement authorities an affidavit setting forth the name, address, and driver license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit submitted under this subsection is admissible in the Special Magistrate proceeding charging a parking ticket violation and raises the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation.
- d. Any person upon which service is obtained pursuant to this section who does not request a hearing or pay the prescribed fine as directed by the certified notice shall be subject to additional penalties to be determined by the Special Magistrate.

(10) Penalties. Any person who is cited for violation of this section shall be subject to a fine of \$100.00 for the first violation, and a fine of \$250.00 for each subsequent violation. Each day any violation of any provision of this section occurs shall constitute a separate offense that may be fined. Violation fees must be paid at the City of Jacksonville Beach Police Department or at the utility billing office on the first floor of the City of Jacksonville Beach City Hall.

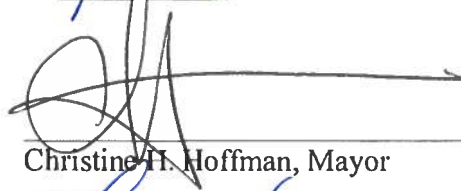
**SECTION 3. CONFLICTING ORDINANCES.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 4. SEVERABILITY.** 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 shall not affect the remaining provisions of this Ordinance.

**SECTION 5. CODIFICATION.** The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances.

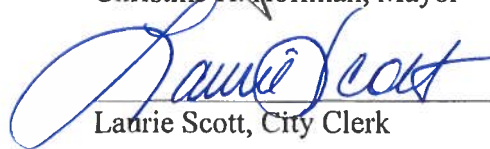
**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect upon final reading and approval by the City Council for the City of Jacksonville Beach.

AUTHENTICATED THIS 16<sup>th</sup> DAY OF November, A.D., 2020.



A handwritten signature in black ink, appearing to read "Christine H. Hoffman", written over a horizontal line.

Christine H. Hoffman, Mayor



A handwritten signature in blue ink, appearing to read "Laurie Scott", written over a horizontal line.

Laurie Scott, City Clerk