

Introduced by: Council Member Cory Nichols
1st Reading: January 18, 2022
2nd Reading: February 7, 2022

ORDINANCE NO. 2021-8168

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, BY AMENDING ARTICLE IV. DEFINITIONS, ARTICLE VII. ZONING DISTRICTS, AND ARTICLE VIII, DIVISION 2. SUPPLEMENTAL STANDARDS, TO MODIFY THE LIMITATIONS AND CONDITIONS FOR OUTDOOR RESTAURANTS AND BARS; PROVIDING FOR 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 Chapters 163 and 166, Florida Statutes; and

WHEREAS, the City Code of Ordinances, Chapter 34 Land Development Code (LDC) exists to establish comprehensive and consistent standards, regulations, and procedures for the review and approval of all proposed development of land in the City and to implement the goals of the Comprehensive Plan; and

WHEREAS, the City finds it necessary to periodically review and make amendments and revisions to the LDC to provide clarifications, address new issues pertaining to regulations and procedures, make updates, enact new portions, and reorganize parts; and

WHEREAS, the City Council has expressed interest in modifying the language and regulations pertaining to outdoor restaurant areas, the requirements to qualify for a special restaurant alcoholic beverage license, and clarify definitions pertaining to restaurants; and

WHEREAS, the City's Planning Commission, after notice and public hearing, has considered the ordinance and the proposed amendments, clarifications, revisions, updates, and reorganization to the articles, divisions, and sections of the LDC, has considered staff recommendations, information provided, and public testimony given at the public hearings and has presented its recommendation to the City Council; 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. The above recitals are ratified, correct, and made part of this ordinance.

SECTION 2. That Article IV. Definitions, Section 34-41. – General, of the Land Development Code of the City of Jacksonville Beach, Florida is hereby amended, and as amended shall henceforth read as follows¹:

Outdoor restaurant or bar means any restaurant or bar, or portion thereof, which exists outside of the permanent exterior walls of the principal building(s) on a lot and has, in place, tables and chairs set up to accommodate patrons for seating during all hours of operation. This definition includes any deck or other area constructed and/or utilized on the roof of a structure.

SECTION 3. That Article VII. –Zoning Districts, Division 2, of the Land Development Code of the City of Jacksonville Beach, Florida is hereby amended, and as amended shall henceforth read as follows:

Section 34-342. Commercial limited: C-1.

(b) Permitted uses.

(7) Restaurants, except drive-ins; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

Section 34-343. Commercial limited: C-2.

(b) Permitted uses.

(11) Restaurants; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

Section 34-345. Central business district: CBD.

(b) Permitted uses.

(4) Retail trade establishments as follows: Building materials, hardware and garden supplies; general merchandise stores; apparel and accessory stores; home furniture, furnishing and equipment stores; restaurants; drug stores; florists; tobacco stands and newsstands; optical goods stores; ~~and~~ miscellaneous retail goods; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

SECTION 4. That Article VIII. –Site Development Standards, Division 2 –Supplemental Standards, Section 34-407. –Outdoor restaurants and bars, of the Land Development Code of the City of Jacksonville Beach, Florida, is hereby amended, and as amended shall henceforth read as follows:

**ARTICLE VIII.
SITE DEVELOPMENT STANDARDS
DIVISION 2.
SUPPLEMENTAL STANDARDS**

Sec. 34-407. Outdoor Restaurants and Bars

In addition to the standards applicable to all conditional uses, as stated in Section 34-231, and in addition to the regulations of the zoning district in which the restaurant or bar is located, outdoor

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

restaurants and bars that are permitted or allowed in any zoning district shall be subject to the following limitations and conditions:

(a) The unenclosed, outdoor portion area of the restaurant or bar shall be accessory to ~~or~~ and under the same ownership or control as the restaurant or bar that is operated within a totally and permanently enclosed building located on the same lot.

(b) The area of unenclosed, outdoor customer service area of a restaurant shall not exceed fifty percent (50%) of the total gross enclosed area of the restaurant. The area of unenclosed outdoor or bar shall not exceed twenty-five (25%) of the total enclosed area of the restaurant or bar. Existing outdoor seating areas shall not be expanded without first receiving conditional use approval.

(c) Required parking spaces shall be provided for the unenclosed, outdoor customer service area outside of the permanently enclosed building at the same ratio as is required for the permanently enclosed area of the restaurant or bar. Parking is not required for outdoor restaurant areas of 250 square feet or less.

(d) The outdoor customer service area ~~shall not~~ may be used to compute the minimum seating or customer service area required to qualify for a special restaurant (SRX) alcoholic beverage license. For any establishment selling alcoholic beverages for on-site consumption, the outdoor customer service area shall be enclosed by a minimum 42" high wall or fence. The wall or fence shall be constructed of wood, metal (Except chain link), plastic, or other similar material. No rope of any kind shall be permitted.

(e) Buffering must be provided around outdoor restaurant or bar areas when immediately adjacent to residential uses. At a minimum, a solid six-foot tall fence should be installed between the commercial and residential uses, or a thirty-six (36) inch diameter pot by a minimum of twenty-four (24) inches high should be provided every five (5) lineal feet of outdoor restaurant area immediately adjacent to a residential use. The plant species should be at least two (2) times as high as the height of the pot.

(ef) No animals except service dogs shall generally be permitted within an approved outdoor restaurant or bar seating area. However, pursuant to Ordinance No. 2010-7992, other dogs may be allowed in an outdoor restaurant area upon approval of a Dogs in Outdoor Dining Area permit application.

(fg) The Planning Commission is authorized to establish hours of operation for conditional use outdoor restaurant and bar seating areas as a means to ensure their capability with surrounding land uses.

(gh) If an approved outdoor restaurant or bar area violates any of the standards set forth in this section, or any other conditions placed on their approval by the Planning Commission, the violation shall be referred to the Special Magistrate for a hearing. Upon finding that such a violation exists, the Special Magistrate may apply penalties as provided by law, including revocation of the conditional use approval for that outdoor seating area. Whenever the approval for a conditional use outdoor bar or restaurant seating area is revoked for a particular establishment, a conditional use application for outdoor bar or restaurant seating shall not be considered for any portion of that establishment for a period of two (2) years after the date of revocation.

SECTION 5. CONFLICTING ORDINANCES. That 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.

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 7th DAY OF February, A.D., 2022.



Cory Nichols, Mayor pro-tem



Sheri Gosselin, City Clerk

Approved as to form and legal sufficiency:



Sandra R. Robinson, City Attorney