



City of Jacksonville Beach

Agenda

11 North Third Street
Jacksonville Beach, Florida

Planning Commission

Monday, July 24, 2023

7:00 PM

Council Chambers

MEMORANDUM TO:

Members of the Planning Commission
City of Jacksonville Beach, Florida

The following Agenda of Business has been prepared for consideration and action at the Regular Meeting of the Planning Commission.

CALL TO ORDER

ROLL CALL

Margo Moehring (Chair), Colleen White (Vice-Chair), Dave Dahl, Justin Lerman, Nicholas Andrews
Alternates: Justin Henderson, Debbie Cole

APPROVAL OF MINUTES

A. Minutes for June 26, 2023 meeting

CORRESPONDENCE

DISCLOSURE OF EX-PARTE COMMUNICATIONS

OLD BUSINESS

NEW BUSINESS

A. **PC#** 12-23
ADDRESS: 11 North Third Street
OWNER: N/A
APPLICANT: City of Jacksonville Beach Planning and Development Department

SUMMARY OF APPLICATION: Land Development Code Text Amendment to amend Section 34-393, Alcoholic Beverage Establishments to maintain consistency with House Bill 1561 and House Bill 639.

PLANNING DEPARTMENT REPORT

A. August 14th and August 28th meetings for Planning Commission will be canceled for lack of business items.

ADJOURNMENT

NOTICE

In accordance with Section 286.0114, Florida Statutes, any member of the public can attend a public

hearing and can be heard on any matter presented before the Commission. Anyone who wishes to provide live public comment should complete a "Speaker Request Card" and submit it to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience. Speakers will be called to address the Commission when specified items are under consideration and will be limited to a maximum of three minutes or less, at the discretion of the presiding officer.

Alternatively, written public comment can be submitted in advance and must include the following: (1) First Name, (2) Last Name, (3) Address, (4) Public Hearing Date, (5) Case Number, and (6) Comments. Written public comments may be submitted by one of the following options: (1) Email to planning@jaxbchfl.net, (2) Postal mail to Planning and Development, Planning Commission - Public Comment, 11 3rd Street North, Jacksonville Beach, FL 32250, or (3) Drop off in-person to Planning and Development at City Hall. Written comments that include all required information and are received 24 hours in advance of the meeting will be distributed to the Commission and attached to the related agenda item before the start of the meeting. All comments received are public record.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299 no later than one business day before the meeting.

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**Minutes of Planning Commission Meeting
held Monday, June 26, 2023, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



CALL TO ORDER:

The meeting was called to order at 7:00 P.M. by Chair Margo Moehring.

ROLL CALL:

Chairperson: Margo Moehring
Vice-Chairperson: Colleen White
Board Members: David Dahl (absent) Justin Lerman Nicholas Andrews (absent)
Alternates: Justin Henderson Debbie Cole (absent)

Senior Planner Christian Popoli, City Attorney Sandra Robinson, and Administrative Assistant Callie Rayeski-Bowling were also present.

APPROVAL OF MINUTES:

It was moved by Ms. White, seconded by Mr. Lerman, and passed unanimously to approve the following minutes:

- Regular Planning Commission Meeting held on June 12, 2023

CORRESPONDENCE: None

DISCLOSURE - EX PARTE COMMUNICATION:

No Board Member had ex-parte communication.

OLD BUSINESS: None

NEW BUSINESS:

(A) PC# 11-23 Transfer of Conditional Use Application

Owner: EHP Jacksonville HOLA, LLC
55 Fifth Avenue South, Suite 1605,
New York, NY 10003

**Applicant/
Agent:** Sage Gainesville Hospitality, LLC
1824 Town Center Blvd. Suite 202,
Fleming Island, FL 32003

Location: 1220 Marsh Landing Parkway

Conditional Use application for the transfer of ownership of an existing hotel in the Industrial District: I-1 Zoning District, pursuant to section 34-346(d)(7) of the Jacksonville Beach Land Development Code.

Staff Report:

Mr. Popoli summarized the following report for the record:

The subject property is located south of JTB, on the south side of Marsh Landing Parkway, to the west of the intersection of Marsh Landing Parkway and South Beach Parkway. The property is currently developed as a roughly 58,000-square-foot hotel, constructed in 1999. The hotel has been in continuous operation from construction to the present day. The use of the hotel is a Conditional Use in the I-1 zoning district. The property was initially approved for Conditional Use in 1998 and has changed ownership several times with a transfer of Conditional Use approval. Most recently, through the approval of PC#4-18 in March of 2018.

The current applicant is the new buyer of the property. As part of the agreement for sale, the new owners (applicants) will have to obtain a transfer of Conditional Use approval for the sale to go through. The intent is to continue to operate the location as a hotel. Surrounding Zoning Districts include I-1 adjacent to the west, PUD adjacent to the south, PUD adjacent to the east, and RS-1 across JTB to the north. Current surrounding uses are as follows: office use to the west, multifamily to the south, commercial shopping center to the east, and single-family across JTB to the north. Based on the existing hotel's past performance and the intent to continue to operate the location as a hotel, the continued use as a hotel would not negatively impact the surrounding area.

Based on the provided application and analysis stated in this report, the Planning and Development Department recommends Approval of PC#11-23.

Agent:

Gary Patel, 1824 Town Center Blvd, Suite 202, Fleming Island, provided a brief background on the item.

Public Hearing:

No one came forth to speak. Chair Moehring closed the public hearing.

Discussion: A brief discussion ensued about conditional use.

Motion: It was moved by Mr. Henderson, seconded by Ms. White, to recommend approval of PC# 11-23.

Roll Call Vote: Ayes – Colleen White, Justin Lerman, Justin Henderson, and Margo Moehring.

The application was unanimously approved.

PLANNING DEPARTMENT REPORT:

The next scheduled meeting is Monday, July 24, 2023. There is one scheduled case.

A brief discussion ensued about the next round of Comprehensive Plan/Land Development Code workshops.

ADJOURNMENT:

There being no further business, the meeting adjourned at 7:10 P.M.

Minutes of the Planning Commission
June 26, 2023

Submitted by: Callie Rayeski-Bowling
Administrative Assistant

These minutes were reviewed by Planning & Development.

Approval:

Chairperson

Date

DRAFT



PLANNING COMMISSION AGENDA ITEM	
TO:	Planning Commission Members
FROM:	Heather Ireland, Planning and Development
DATE:	06/27/2023
SUBJECT:	July 24, 2023 Planning Commission Staff Report

The following information is provided for your consideration for the following agenda item for the upcoming Monday, July 24, 2023 Planning Commission Meeting.

NEW BUSINESS:

PC#12-23 Land Development Code Text Amendment

OWNER: Not Applicable

APPLICANT: City of Jacksonville Beach Planning and Development Department

AGENT: Heather Ireland, Director

LOCATION: Not Applicable

REQUEST: **Land Development Code Text Amendment Approval** to amend Chapter 34 - Land Development Code, Article VIII - Site Development Standards, Division 2 - Supplemental Standards, Section 34-393 - Alcoholic Beverage Establishments to maintain consistency with Florida Statutes and 2023 House Bill 1561 and House Bill 639.

COMMENTS: House Bill (HB) 1561, presented during the 2023 legislative session and signed by the Florida Governor on June 20th 2023, establishes an exception to the space and seating requirements for special restaurant licenses in the Downtown Incentive Zone (DIZ) in order to encourage development and redevelopment in the downtown district. The DIZ is a special zone bounded by Third Street, the Atlantic Ocean, Sixth Avenue North, and Second Avenue South as established by the City Council via Resolution 2121-2022.

Pursuant to HB 1561, within the DIZ, the Florida Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may issue a special alcoholic beverage license (4COP SFS) to any public food service establishment that is equipped to serve 50 or more persons at one time and occupying not less than 1,200 square feet of service area, which derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.



HB 639, also presented during the 2023 legislative session with an effective date of July 1, 2023, amends Florida Statutes Section 561.20 to allow the issuance of special alcoholic beverage licenses to bona-fide restaurants that have a minimum of 2,000 square feet of service area (decreased from 2,500 square feet), is equipped to serve meals to 120 (decreased from 150) persons at one time, has at least 120 physical seats available for patrons to use during operating hours, holds itself out as a restaurant, and derives at least 51 percent of its gross revenue from the sale of food and non alcoholic beverages.

The adoption of these 2023 House Bills requires the City to amend Chapter 4 of the City's Code of Ordinances to be in compliance, by decreasing the space and seating requirements city-wide and in the Downtown Incentive Zone. Additionally, the adoption of these House Bills requires the City to amend Section 34-393 of the Land Development Code to maintain consistency with Florida Statutes and the changes to Chapter 4 of the City's Code of Ordinances. Proposed changes to the Land Development Code include updating the 150 seats to 120 seats pursuant to the Florida Statute, and adding an exemption to the 500 ft proximity rule to schools, churches, and bars in the Downtown Incentive Zone only for bona-fide restaurants with 50 or more seats.

The proposed amendments to Section 34-393 provided in the attached ordinance have been prepared for the Planning Commission's consideration for recommendation to the City Council. The proposed changes to Chapter 4 are also provided for reference, although no action is required from the Planning Commission on the changes.

In accordance with Sec. 286.0105, Fla. Stat., any person who desires to appeal any decision made by the commission at this meeting will need a record of the proceedings. For such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2023-8201

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 34 "LAND DEVELOPMENT CODE", ARTICLE VIII "SITE DEVELOPMENT STANDARDS", DIVISION 2 "SUPPLEMENTAL STANDARDS" SECTION 34-393 "ALCOHOLIC BEVERAGE ESTABLISHMENTS" TO MAINTAIN CONSISTENCY WITH AMENDED CHAPTER 4 "ALCOHOLIC BEVERAGES", AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SCRIVENER'S ERRORS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Community Redevelopment Agency and City Council are actively engaged in economic development efforts in the Downtown Community Redevelopment Area; and

WHEREAS, redevelopment taking place in the downtown area of the City of Jacksonville Beach anticipates the potential for smaller tenant spaces that may be created that could accommodate smaller public food service establishments that would be unable to qualify for a special alcoholic beverage license; and

WHEREAS, lowering the space and seating requirements for those establishments within a special zone that derive at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages would allow smaller public food establishments to qualify for a special alcoholic beverage license; and

WHEREAS, Resolution 2121-2022 adopted by the Jacksonville Beach City Council on September 6, 2022 establishes the Downtown Incentive Zone, also referred to as the DIZ, as all lands bounded by 3rd Street, the Atlantic Ocean, 6th Avenue North, and 2nd Avenue South; and

WHEREAS, Resolution 2121-2022 provided desired amended space and seating requirements for special alcoholic beverage licenses in the Downtown Incentive Zone for establishments that are equipped to serve 50 or more persons at one time and occupying not less than 1,200 square feet of service area, which derives at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages; and

WHEREAS, the City of Jacksonville Beach in coordination with Duval County, filed a local bill with support from the Duval County Legislative Delegation for the 2023 State Legislative Session for an amendment to the Laws of Florida; and

WHEREAS, House Bill 1561 (2023) was signed into law by the Governor of the State of Florida on June 20, 2023; and

WHEREAS, House Bill 639 (2023) amends Chapter 561.20 Florida Statutes, providing that a bona fide food service establishment located in the Downtown Incentive Zone that has a minimum of 2,000 square feet of service area, is equipped to serve meals to 120 persons at one time, has at least 120 physical seats available for patrons to use during operating hours, and holds itself out as a restaurant, is qualified for a special alcoholic beverage license.

WHEREAS, the Jacksonville Beach Planning Commission acting as the City's Local Planning Agency, 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 has considered the proposed code amendments, the recommendation of the Planning Commission, and public testimony given at the public hearings.

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

SECTION 1. RECITALS. The foregoing recitals are deemed true and material parts of this ordinance are fully incorporated herein by reference.

SECTION 2. CHAPTER 34 "LAND DEVELOPMENT CODE", ARTICLE VIII "SITE DEVELOPMENT STANDARDS", DIVISION 2 "SUPPLEMENTAL STANDARDS", SECTION 34-393 "ALCOHOLIC BEVERAGE ESTABLISHMENTS" OF THE CITY CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS¹:

Sec. 34-393. - Alcoholic beverage establishments.

Alcoholic beverage establishments shall be subject to the following supplementary standards.

- (1) Proximity to churches and schools. An establishment, where permitted, which provides for the consumption of alcoholic beverages on the premises shall not be located within five hundred (500) feet of a school or church measured from main entrance to main entrance (portal to portal) by the most direct pedestrian route. Hotels with one hundred (100) or more rooms and restaurants with a seating capacity of one hundred ~~fifty~~ twenty ~~(150)~~ (120) or more may be located closer than five hundred (500) feet to a school or church. Restaurants located in the Downtown Incentive Zone with seating capacities of fifty (50) or more may be located closer than five hundred (500) feet to a school or church.
- (2) Proximity to other alcoholic beverage establishments. An establishment whose primary activity involves the consumption of alcoholic beverages on the premises shall not be located within five hundred (500) feet of a similar existing establishment, measured from main entrance (portal to portal) by the most direct pedestrian route. Hotels with one hundred (100) or more rooms, restaurants with seating capacities of one hundred ~~fifty~~ twenty ~~(150)~~ (120) or more and businesses wherein the sale of

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

alcoholic beverages is only incidental to the principal use may be located closer than five hundred (500) feet to another establishment serving alcoholic beverages for consumption on the premises. Restaurants located in the Downtown Incentive Zone with seating capacities of fifty (50) or more may be located closer than five hundred (500) feet to another establishment serving alcoholic beverages for consumption on the premises.

SECTION 3. CONFLICTING ORDINANCES. That all ordinances or parts of ordinances adopted by the City Council in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

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 will not affect the remaining provisions of this ordinance.

SECTION 5. SCRIVENER'S ERRORS. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk

SECTION 6. CODIFICATION. The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect and be enforceable in all aspects immediately upon final reading and approval by the City Council for the City of Jacksonville Beach as authenticated herein.

AUTHENTICATED THIS _____ DAY OF _____, A.D., 2023.

Christine H. Hoffman, Mayor

Sheri Gosselin, City Clerk

Approved as to form and legal sufficiency:

Sandra R. Robinson, City Attorney

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2023-8200

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 4 “ALCOHOLIC BEVERAGES”, SECTION 4-2. “PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE” TO COMPLY WITH HOUSE BILL 1561 CREATING A SPECIAL ZONE IN THE CITY OF JACKSONVILLE BEACH, PROVIDING EXCEPTIONS FOR SPACE AND SEATING REQUIREMENTS FOR LIQUOR LICENSES FOR RESTAURANTS IN THE DOWNTOWN INCENTIVE ZONE, PROVIDING FOR ADDITIONAL RESTRICTIONS, PROVIDING FOR COMPLIANCE WITH HOUSE BILL 639; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SCRIVENER’S ERRORS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Community Redevelopment Agency and City Council are actively engaged in economic development efforts in the Downtown Community Redevelopment Area; and

WHEREAS, redevelopment taking place in the downtown area of the City of Jacksonville Beach anticipates the potential for smaller tenant spaces that may be created that could accommodate smaller public food service establishments that would be unable to qualify for a special alcoholic beverage license; and

WHEREAS, lowering the space and seating requirements for those establishments within a special zone that derive at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages would allow smaller public food establishments to qualify for a special alcoholic beverage license; and

WHEREAS, Resolution 2121-2022 adopted by the Jacksonville Beach City Council on September 6, 2022 establishes the Downtown Incentive Zone, also referred to as the DIZ, as all lands bounded by 3rd Street, the Atlantic Ocean, 6th Avenue North, and 2nd Avenue South; and

WHEREAS, Resolution 2121-2022 provided desired amended space and seating requirements for special alcoholic beverage licenses in the Downtown Incentive Zone for establishments that are equipped to serve 50 or more persons at one time and occupying not less than 1,200 square feet of service area which derives at least 51 percent of its gross food and beverage revenue from the sale of food and non-alcoholic beverages; and

WHEREAS, the City of Jacksonville Beach in coordination with Duval County, filed a local bill with support from the Duval County Legislative Delegation for the 2023 State Legislative Session for an amendment to the Laws of Florida; and

WHEREAS, House Bill 1561 (2023) was signed into law by the Governor of the State of Florida on June 20, 2023; and

WHEREAS, House Bill 639 (2023) amends Chapter 561.20 Florida Statutes, providing that a bona fide food service establishment that has a minimum of 2,000 square feet of service area, is equipped to serve meals to 120 persons at one time, has at least 120 physical seats available for patrons to use during operating hours, and holds itself out as a restaurant, is qualified for a special alcoholic beverage license.

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

SECTION 1. RECITALS. The foregoing recitals are deemed true and material parts of this ordinance are fully incorporated herein by reference.

SECTION 2. CHAPTER 4 “ALCOHOLIC BEVERAGES”, SECTION 4-2. “PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE” OF THE CITY CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS¹:

Sec. 4-2. Prohibited hours of sale, consumption, and service.

- (a) *Applicability.* The provisions of this section shall apply to the following state alcoholic beverage license types: 1-COP (beer only consumption on premises), 2-COP (beer and wine consumption on premises), 4-COP Quota License (beer, wine, and liquor package sales and consumption on premises), 4-COP-S (beer, wine, and liquor consumption on premises in connection with the operation of a hotel, motel, motor court, or condominium), 4-COP-SRX/SFS (beer, wine, and liquor consumption on premises in connection with a restaurant), 4-COP-SBX (beer, wine, and liquor consumption on premises in connection with a bowling alley), 11-GC (beer, wine, and liquor consumption on premises in connection with a golf club), 11-C (beer, wine, and liquor in connection with a bona fide club, including fraternal or benevolent association lodges or clubs, social clubs; and tennis, racquetball, cabana, or beach clubs, for consumption on premises by members and their guests only), and ODP (beer, wine, and liquor consumption on premises for a bona fide non-profit civic organization for a period not to exceed three (3) days and no more than three (3) times per year).
- (b) *Definitions.*
 - (1) *Sale and sell* shall mean and include not only selling but also consuming, serving, and/or permitting to be served or consumed, any alcoholic beverages.
 - (2) *Alcoholic beverage* shall mean (as provided in F.S. § 561.01) distilled spirits and all beverages containing one-half (½) of one (1) percent or more alcohol by volume.
 - (3) *Alcoholic beverage establishment* shall mean any commercial establishment located in the city which allows for alcoholic beverages (beer, wine, or liquor) to be sold for consumption on the premises.

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

- (4) *Beer, wine and liquor* shall have the same meanings as provided in F.S. §§ 563.01, 564.01, 565.01, as those sections may be amended or renumbered from time to time.
 - (5) *Establishment* shall have the same meaning as alcoholic beverage establishment.
 - (6) *Extended hours of operation permit* shall mean a permit issued by the City of Jacksonville Beach that allows an alcoholic beverage establishment to operate and sell alcoholic beverages for purposes of consumption on the premises between the hours of 12:00 midnight and 2:00 a.m.
 - (7) *Restaurant* shall mean the same as public food service establishment as defined in F. S. § 509.013 (5)(a), and shall mean and include any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before being delivered to another location for consumption. For the purposes of this chapter, the definition of a restaurant shall include any business with a special license issued by the Division of Alcohol and Tobacco of the Florida Department of Business and Professional Regulation.
 - (8) *Transfer of ownership* shall mean a transfer of a license, change of officers or directors, or transfer of interest as defined and regulated under the provisions of F.S. § 561.32.
- (c) *Restricted hours of sale and operation.* Except as provided in section 4-2(d), no alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell alcoholic beverages (beer, wine, or liquor), shall sell or offer for sale, or serve or offer to serve, any beer, wine, liquor, or alcoholic beverages of any kind, regardless of alcoholic content, on any day of the week between the hours of 12:00 midnight and 7:00 a.m. Alcoholic beverage establishments shall not be open for operation between the hours of 2:00 a.m. to 6:00 a.m. on any day of the week.
- (d) *Permit required for certain alcoholic beverage establishments to sell alcoholic beverages between the hours of 12:00 midnight and 2:00 a.m.*
- (1) *Permit required.* A qualifying alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell, offer for sale, or deliver alcoholic beverages, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m., but in any case no later than 2:00 a.m., on any day of the week, shall make application with the city clerk for an extended hours of operation permit. Qualifying alcoholic beverage establishments licensed under the state alcoholic beverage laws that are located in the Downtown Incentive Zone, are smaller than 2,000 square feet, and maintain the ability to serve a maximum of less than 120 persons are not eligible for permits for extended hours of operation.
 - (2) The alcoholic beverage establishment shall complete an application form provided by the city, including, but not limited to, the name and street address where notices related to this section are to be mailed. An annual fee, in an amount set by resolution of the city council and payable upon issuance, shall be charged for the permit. The application form shall include, but not be limited to, the following information:
 - a. Name and street address of the owner of the alcoholic beverage establishment,

- b. Name, street address, and signature of the property owner of record if different from the owner of the alcoholic beverage establishment acknowledging an understanding of section 4-2 of the Code of the City of Jacksonville Beach.
 - c. Valid business tax receipt for the alcoholic beverage establishment,
 - d. Verification of compliance by the alcoholic beverage establishment with city zoning regulations,
 - e. Specific type of state alcoholic beverage license held by the alcoholic beverage establishment.
 - f. If the establishment holds a state alcoholic beverage license other than a 4-COP Quota License, the establishment will submit a copy of the proposed seating diagram, to include any proposed dining area.
 - g. Signed approval of the alcohol beverage establishments' security emergency action plan by the Jacksonville Beach Police Department and the Jacksonville Beach Fire Marshal.
- (3) The city manager or designee shall review the application and, if the application is complete, and the alcoholic beverage establishment is in compliance with the Code of Ordinances and state alcoholic beverage laws, a permit shall be issued allowing the alcoholic beverage establishment to sell alcoholic beverages, as restricted by the alcoholic beverage establishment's state beverage license, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m. on every day of the week.
- (4) Such permit may be renewed by the city annually on or before the thirtieth day of September, so long as the alcoholic beverage establishment is compliant with the requirements of this section, unless any of the following occur:
- a. The permit is under suspension at the time of renewal.
 - b. The alcoholic beverage establishment's state beverage license has been revoked or suspended.
 - c. A transfer of ownership, as defined in section 4-2(b)(8), definitions, or a change in location of the establishment has occurred, and this information was not provided to the city.
- (5) The city shall be notified immediately, and the alcoholic beverage establishment shall apply for a new permit if a transfer of ownership, as defined in section 4-2(b)(8), or a change in location of the establishment has occurred. Until such time as the alcoholic beverage establishment makes application, is approved, and receives a new permit, the privilege of extended hours for the sale of alcoholic beverages shall be suspended. Failure to renew the extended hours of operation permit on or before the thirtieth day of September of each year, or to pay the annual fee as set by resolution of the city council, shall be cause for the immediate suspension of extended hours privileges pursuant to section 4-2(e), notice of violations, hearings, and penalties.
- (6) No alcoholic beverage establishment is authorized to sell or serve alcoholic beverages for purposes of consumption on the premises after 12:00 midnight unless it possesses a valid extended hours of operation permit from the city. No alcoholic beverage establishment is authorized to sell or serve alcoholic

beverages, after 2:00 a.m. and before 7:00 a.m. on any day of the week. Alcoholic beverage establishments shall not be open for operation between the hours of 2:00 a.m. to 6:00 a.m. on any day of the week.

- (7) The provisions of this section shall not impair or affect the right of an alcoholic beverage establishment with a state alcoholic beverage license to remain open and sell alcoholic beverages between the hours of 7:00 a.m. and 12:00 midnight.
- (e) *Notice of violations, hearings, and penalties.* The ability of an alcoholic beverage establishment to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage between the hours of 12:00 midnight and 2:00 a.m. on any day of the week is hereby declared to be and is a privilege subject to suspension, and no person may reasonably rely upon a continuation of that privilege. As a condition of the continuation of the privilege, alcoholic beverage establishments are required to take all necessary steps to minimize illegal activities.
- (1) *Illegal activities included.* The following are representative, but not all inclusive, of activities that may result in suspension of the privilege of extended hours of operation for authorized alcoholic beverage establishments to sell alcoholic beverages for purposes of consumption on the premises:
 - a. Illegal activities requiring a police response that occur on or adjacent to the premises of an alcoholic beverage establishment. Particular emphasis will be given to illegal activities of the owner, employees, patrons of the establishment, or others associated with the establishment; including, but not limited to, the use, sale, or delivery of controlled substances, allowing underage drinking, continuing to sell alcoholic beverages after closing time, violation of open container laws, serving alcoholic beverages to intoxicated persons, disturbances, batteries, driving under the influence (DUI), disorderly intoxication, violations of the Florida Fire Prevention Code, and other violations of law during all hours of operation. The city shall consider whether the need for police services is the result of the establishment's failure or inability to maintain proper order and control during all hours of operation;
 - b. Failure of any restaurant, as defined in section 4-2(b)(7), which possesses a 4-COP-SRX/SFS (special restaurant/special food service establishment) state alcoholic beverage license as addressed under the provisions of F. S. § 561.20(2)(a)4:
 - 1. To maintain at least two thousand ~~five hundred~~ (2,~~50~~00) square feet of service area, except for special restaurant/food service establishments located in the Downtown Incentive Zone which must maintain at least 1,200 square feet of service area.
 - 2. To be equipped to serve one hundred ~~fifty~~ twenty (1~~5~~20) persons full course meals from a menu at tables at all times during all hours of operation, except for special restaurant/food service establishments located in the Downtown Incentive Zone which must be equipped to serve fifty (50) persons full course meals from a menu at tables at all times during all hours of operation.
 - 3. To keep the kitchen open and capable of preparing food and filling customers' orders up to thirty (30) minutes before time of closing,

4. To keep all tables and chairs upright and in place during all hours of operation as per diagram submitted to the city during the permitting process,
 5. To derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages. Failure to derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages shall be based on the findings of an audit of the 4-COP-SRX/SFS licensee by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation, irrespective of any sanctions or penalties imposed by said division pursuant to that audit.
- c. Complaints verified and documented by police arising from adverse effects of extended hours of operation upon neighboring properties, including, but not limited to, excessive noise, illegal parking, vandalism, generation of trash or garbage on or adjacent to the establishment, loitering by intoxicated persons, or exterior lighting on neighboring residential properties;
 - d. Violations of any provisions of the City of Jacksonville Beach Code of Ordinances; including, but not limited to, Chapter 18, relating to noise and sound limitations;
 - e. Failure to obtain an extended hours of operation permit, or failure to renew the permit as required;
 - f. Violations of state statutes and/or fire codes related to the maximum permissible occupancy at the alcoholic beverage establishment location;
 - g. *Sales by employees during prohibited hours.* No person, or any agent, servant, or employee of any person licensed under the state alcoholic beverage laws shall sell, or offer for sale, any beer, wine, liquor, or alcoholic beverage of any kind during prohibited hours.
 - h. *Gifts.* It is a violation of this section for any person, or any agent, servant or employee of any person licensed under the state alcoholic beverage laws, during prohibited hours as set forth in this section, to gratuitously give any kind of alcoholic beverage, whether conditioned upon the purchase of any kind of alcoholic beverage or product of any nature, at any inflated price or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.
 - i. Failure to adhere to and follow the security emergency action plan as approved by the City of Jacksonville Beach Police Department and the City of Jacksonville Beach Fire Marshal.
- (2) *Successive violations.* In order to invoke the enforcement provisions of this section, a violation must be traceable to the particular alcoholic beverage establishment against which action is taken, and must be verified and documented by a police officer, code enforcement officer, or fire department official.
- a. *1st notice of violation.* A first violation by an alcoholic beverage establishment of this section, any section of the Code of Ordinances or state statutes shall result in a written notice of violation. The 1st notice of violation shall be issued by a police officer. The 1st notice of violation shall be sent certified mail to the property owner at the address listed in the tax collector's office or property

appraiser's database and left with the owner, proprietor, manager, or highest-ranking employee then on the premises of the alcoholic beverage establishment. Issuance of a 1st notice of violation for a violation of this section shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes.

- b. *2nd notice of violation.* A subsequent violation of this section, any section of the Code of Ordinances or state statutes by an alcoholic beverage establishment within one hundred eighty (180) days of issuance of a written 1st notice of violation shall result in a written 2nd notice of violation. The 2nd notice of violation shall be issued by a police officer. The 2nd notice of violation shall be sent certified mail to the property owner at the address listed in the tax collector's office or property appraiser's database and left with the owner, proprietor, manager, or highest-ranking employee then on the premises of the alcoholic beverage establishment. Issuance of a 2nd notice of violation for a violation of this section shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes.
- c. *Special magistrate.* All notices of violation shall be taken before the city's special magistrate for consideration of suspension of the alcoholic beverage establishment's extended hours of operation permit. The special magistrate shall exercise jurisdiction over such matters as set forth in Article VI, section 2-170 of the Code of Ordinances of the City of Jacksonville Beach.
- d. *Action by the special magistrate.* Upon completion of the hearing, the special magistrate shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's extended hours of operation permit, the extended hours of operation permit shall be suspended, or that the extended hours of operation permit be revoked.
 - 1. A suspension of the extended hours of operation permit for a first finding by the special magistrate of a violation shall be for up to sixty (60) days at the discretion of the special magistrate depending upon the severity of the violation(s).
 - 2. A second finding by the special magistrate of a violation of the extended hours of operation permit within one hundred eighty (180) days of issuance of the first notice of violation regardless of the special magistrate's finding in said violation shall be suspended for no less than thirty (30) days nor more than ninety (90) days.
 - 3. A third and any subsequent findings of violations occurring within one (1) year (three hundred sixty-five [365] days) of the date of completion of the most recent suspension period shall result in a revocation of the extended hours of operation permit which suspension shall travel with the property for a period of one (1) year (three hundred sixty-five [365] days) from the date of the finding of violation by the special magistrate.
 - 4. In addition to any suspension of the extended hours of operation permit, as listed above, the special magistrate may issue a fine of not more than five hundred dollars (\$500.00) per violation of this section.

The special magistrate shall base his/her ruling upon substantial, competent evidence presented that supports a finding of noncompliance with this section. The special magistrate's written order of suspension of the extended hours of operation permit shall state the effective date of suspension and shall give the alcoholic beverage establishment at least ten (10) calendar days notice of the suspension.

- e. *Failure of alleged violator to appear.* If an alcoholic beverage establishment served with a notice of violation fails to appear at the hearing after having received proper notice, the special magistrate shall take testimony from city staff, and other relevant testimony, as available, and shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's extended hours of operation permit, the extended hours of operation permit shall be suspended for a period of time as set forth in section 4-2(e)(2)d., or that the extended hours of operation permit be revoked as set forth in section 4-2(e)(2)d. of this section. A ruling that the extended hours of operation be suspended shall take effect on the eleventh calendar day after the order is issued and provided to the alcoholic beverage establishment. The enforcement of such order shall be stayed if the alcoholic beverage establishment files a request for a rehearing with the city clerk's office before the date the order is scheduled to take effect. In such case, the alcoholic beverage establishment shall be rescheduled for a hearing before the special magistrate. At that hearing, the special magistrate shall take testimony from the alcoholic beverage establishment, and other relevant testimony, as available, and shall deliver a ruling upholding the previous order suspending the extended hours of operation permit, amending the order suspending the extended hours of operation permit, or rescinding the order suspending the extended hours of operation permit. If the special magistrate upholds a suspension of the extended hours of operation permit, such suspension shall take effect the next calendar day after the ruling is issued.
- f. Any alcoholic beverage establishment that has had an extended hours of operation permit suspended cannot avoid the consequences of the special magistrate's action by changing its business name or corporate status, as set forth in F. S. § 561.32.
- g. The enforcement procedures contained herein are alternative procedures, and the city reserves the right to arrest, prosecute, or take action utilizing alternative procedures authorized by law.
- h. Existing holders of valid extended hours of operation permits on the date of passage of this section shall be granted six (6) months or the next annual renewal of the permit, whichever is less, in order to comply with the requirements of section 4-2(d)(2)g.

SECTION 3. CONFLICTING ORDINANCES. That all ordinances or parts of ordinances adopted by the City Council in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

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 will not affect the remaining provisions of this ordinance.

SECTION 5. SCRIVENER'S ERRORS. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk

SECTION 6. CODIFICATION. The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect and be enforceable in all aspects immediately upon final reading and approval by the City Council for the City of Jacksonville Beach as authenticated herein.

AUTHENTICATED THIS _____ DAY OF _____, A.D., 2023.

Christine H. Hoffman, Mayor

Sheri Gosselin, City Clerk

Approved as to form and legal sufficiency:

Sandra R. Robinson, City Attorney

ENROLLED

HB 1561

2023 Legislature

Beverage Law and regulations of the state not inconsistent herewith.

Section 2. (1) There is created a special zone in the City of Jacksonville Beach to be known as the Downtown Incentive Zone. The area is described as follows:

All lands bounded by 3rd Street, the Atlantic Ocean, 6th Avenue North, and 2nd Avenue South.

(2) Notwithstanding s. 561.20(1), Florida Statutes, in the area described as the Downtown Incentive Zone, the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may issue a special alcoholic beverage license to any public food service establishment that is equipped to serve 50 or more persons at one time and occupying not less than 1,200 square feet of service area which derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages; provided that such licenses shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent herewith.

Section 3. This act shall take effect upon becoming a law.

ENROLLED

CS/CS/HB 639, Engrossed 1

2023 Legislature

51 Constitution of 1885, as amended, and incorporated by reference
52 in s. 6(e), Art. VIII of the State Constitution, except that the
53 license shall be issued only to the person or corporation that
54 operates the hotel or motel operation and not to the association
55 of condominium owners;

56 4. A bona fide food service establishment that has a
57 minimum of 2,000 ~~2,500~~ square feet of service area, is equipped
58 to serve meals to 120 ~~150~~ persons at one time, has at least 120
59 physical seats available for patrons to use during operating
60 hours, holds itself out as a restaurant, and derives at least 51
61 percent of its gross food and beverage revenue from the sale of
62 food and nonalcoholic beverages during the first 120-day
63 operating period and the first 12-month operating period
64 thereafter. Subsequent audit timeframes must be based upon the
65 audit percentage established by the most recent audit and
66 conducted on a staggered scale as follows: level 1, 51 percent
67 to 60 percent, every year; level 2, 61 percent to 75 percent,
68 every 2 years; level 3, 76 percent to 90 percent, every 3 years;
69 and level 4, 91 percent to 100 percent, every 4 years. A
70 licensee under this subparagraph may sell or deliver alcoholic
71 beverages in a sealed container for off-premises consumption if
72 the sale or delivery is accompanied by the sale of food within
73 the same order. Such authorized sale or delivery includes wine-
74 based and liquor-based beverages prepared by the licensee or its
75 employee and packaged in a container sealed by the licensee or