

ORDINANCE NO. 06-14

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING CERTAIN PROVISIONS OF CHAPTER 3 AND CHAPTER 4 OF THE LAND DEVELOPMENT CODE FOR THE CITY OF DEBARY, FLORIDA, AMENDING CHAPTER 3 ZONING, SECTIONS 3-101(b), 3-101(c), 3-102(b), 3-102(c), 3-103(b) AND 3-103(c) TO ADD RESTAURANTS WITH OUTSIDE SERVICE OF ALCOHOLIC BEVRAGES AS A PERMITTED USE IN THE B-3 (SHOPPING CENTER), B-4 (GENERAL COMMERCIAL) AND B-5 (HEAVY COMMERCIAL) ZONING CLASSIFICATIONS AND BARS WITH OUTSIDE SERVICE OF ALCOHOLIC BEVERAGES AND RESTAURANTS AND BARS WITH OUTSIDE ENTERTAINMENT AS SPECIAL EXCEPTION USES IN THE SAME SAID CLASSIFICATIONS AND AMENDING SECTION 3-102(c) BY DELETING RESTAURANTS WITH OUTSIDE SERVICES OF ALCOHOLIC BEVERAGES AS A SPECIAL EXCEPTION USE IN THE B-4 (GENERAL COMMERCIAL) ZONING CLASSIFICATION AND ADDING PUBLIC SAFETY FACILITIES AS A PERMITTED USE IN THE B-4 (GENERAL COMMERCIAL) ZONING CLASSIFICATION; CREATING NEW SECTIONS 3-134(9) AND 3-134(18) ESTABLISHING SPECIAL EXCEPTION CRITERIA FOR BARS WITH OUTSIDE SERVICE OF ALCOHOLIC BEVERAGES AND FOR RESTAURANTS AND BARS WITH OUTSIDE ENTERTAINMENT; AMENDING SECTION 3-122 EXCEPTIONS TO MINIMUM YARD OR LOT COVERAGE REQUIREMENTS TO ESTABLISH A NEW SETBACK REQUIREMENT FOR ACCESSORY STRUCTURES 600 SQUARE FEET OR GREATER; AMENDING SECTION 3-138 ACCESSORY STRUCTURES TO DELETE MAXIMUM FLOOR AREAS FOR ACCESSORY STRUCTURES AND ESTABLISH A CUMULATIVE SQUARE FOOTAGE PERCENTAGE FOR ACCESSORY STRUCTURES; AND AMENDING CHAPTER 4 LAND DEVELOPMENT STANDARDS SECTION 4-184 ESTABLISHING NEW CLOSED BASIN STORMWATER CRITERIA FOR PARCELS ABUTTING US HWY 17-92 BETWEEN DIRKSEN DRIVE AND SAXON BOULEVARD PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, F.S. 163.3194 mandates that all land development regulations enacted or amended shall be consistent with the adopted City of DeBary Comprehensive Plan; and

WHEREAS, the intent of F.S. 163.3201 is that the adopted Comprehensive Plan shall be implemented in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within the City of DeBary.

WHEREAS, in 1999 the City of DeBary adopted portions of the Volusia County Zoning Ordinance and Land Development Code by reference to satisfy this intention; and

WHEREAS, on September 5, 2007, the City of DeBary enacted the Land Development Code for the City of DeBary pursuant to Ordinance No. 21-07 to codify all adopted amendments, as well as revise the original reference documents to refer to the City and its organization, and since adoption such Land Development Code has been amended from time to time; and

WHEREAS, on September 5, 2012, the City of DeBary adopted Ordinance No. 02-12 adopting amendments to the City of DeBary Land Development Code by adding a zoning/future land use compatibility matrix, amending zoning regulations of Chapter 3 uses within several zoning classifications for certain permitted and special exception uses;

WHEREAS, the City Council now desires to amend the Land Development Code of the City of DeBary to revise certain amendments adopted on September 5, 2012 as well as other desired amendment as set forth in this Ordinance; and

WHEREAS, the City Council and City staff have reviewed the changes set forth in this Ordinance and believe that such changes will improve upon certain procedural and technical complications encountered with existing Land Development Code provisions; and

WHEREAS, the City Council, as the local governing body, hereby determines that the amendments to the Land Development Code set forth in this Ordinance are consistent with the City of DeBary Comprehensive Plan and are in the best interest of the health, safety and welfare of the citizens of DeBary; and

WHEREAS, this Ordinance has been advertised as required by Chapters 163 & 166, Florida Statutes, the required public hearings have been held by the Local Planning Agency and the City Council and as the local governing body for the City of DeBary.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Authority/Findings. The City of DeBary has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, the City of DeBary Charter, and Chapters 163 and 166, Florida Statutes. The “Whereas” clauses set forth above shall constitute the legislative findings of the City Council of the City of DeBary.

SECTION 2. Adoption of Land Development Code Amendments. Chapter 3 of the Land Development Code for the City of DeBary, Florida are hereby amended in accordance with the amendments set forth in **Exhibit “A”** attached hereto and incorporated herein by this reference (words that are ~~stricken-out~~ are deletions; provisions not referenced are not being modified).

SECTION 3. Conflicts. This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

SECTION 4. Severability. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 5. Codification. It is the intention of the City Council of the City of DeBary, Florida, and it is hereby ordained that Section 2 of this Ordinance shall become and be made a part of the Land Development Code of the City of DeBary, Florida, and the City staff is directed to cause the codification of the amendments set forth in this Ordinance. That the provisions of this Ordinance may be renumbered or relettered to accomplish such intention; the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

First reading and public hearing was held on the 6th day of August, 2014

Second reading, public hearing and adoption was held on the 3rd day of September, 2014

CITY OF DEBARY
CITY COUNCIL

Chris Carson, Mayor

ATTEST:

Stacy Tebo, City Clerk

ATTACHMENTS:

Exhibit “A” Land Development Code Revisions

EXHIBIT “A”

Changes are indicated by ~~strike-through~~ and underline. Strikethrough is used for those items proposed for deletion and underline is used for language being added. Other language is provided for reference and contextual purposes only.

Sec. 3-101. B-3 Shopping Center Classification.

(b) Permitted principal uses and structures. In the B-3 Shopping Center Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Restaurants with outside service of alcoholic beverages. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.

(c) Permitted special exceptions. Additional regulations/requirements governing permitted special exceptions are located in section 3-134.

Bars with outside service and consumption of alcoholic beverages (3-134(9))

Restaurants and bars with outside entertainment (3-134(18))

Sec. 3-102. B-4 General Commercial Classification.

(b) Permitted principal uses and structures. In the B-4 General Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Government owned public safety facilities

Restaurants with outside service of alcoholic beverages. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.

(c) Permitted special exceptions. Additional regulations/requirements governing permitted special exceptions are located in section 3-134.

Bars with outside service and consumption of alcoholic beverages (3-134(9)).

Restaurants and bars with outside entertainment (3-134(18))

~~Restaurants with outside service of alcoholic beverages and entertainment. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service shall be limited to the same hours of operation as interior service.~~

Sec. 3-103. B-5 Heavy Commercial Classification

(b) **Permitted principal uses and structures.** In the B-5 Heavy Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Restaurants with outside service and consumption of alcoholic beverages. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.

c) **Permitted special exceptions.** Additional regulations/requirements governing permitted special exceptions are located in section 3-134.

Bars with outside service and consumption of alcoholic beverages (3-134(9)).

Restaurants and bars with outside entertainment (3-134(18))

Sec. 3-134. Special exceptions. The following uses or structures are permitted as special exceptions only when listed as permitted special exceptions in Chapter 3, Article II, Overlay Districts, and Chapter 3, Article III, Division 3, Zoning Classifications:

(9) ~~Reserved~~ Bars with outside service and consumption of alcoholic beverages subject to the following.

- a. Sufficiency of setbacks, screens, buffers and general amenities to preserve internal and external harmony and compatibility with uses inside and outside the proposed development and to control adverse effects of noise, lights, and other nuisances.
- b. Sufficiency of delineation of outdoor portions of licensed premises from public rights-of-way, sidewalks and other public areas, including without limitation, use of fencing, screens or buffers.
- c. The proposed use is compatible with the surrounding uses and outside services shall not negatively impact adjacent residential uses.
- d. The designated space shall meet fire code and American Disability Act (ADA) requirements.
- e. Area shall have direct access to the building containing the restaurant or to a sidewalk network and be placed in a visible location that is convenient for use by the general public.
- f. The establishment shall carry liquor liability insurance at its own expense and liability.
- g. There shall be adequate parking for the outside seating area.
- h. License from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing shall include outside service area.
- i. A building permit shall be required for any exterior modifications to accommodate outside seating.

(18) ~~Reserved~~ Restaurants and Bars with outside entertainment subject to the following.

- a. There shall be a designated area that has direct access to the building containing the restaurant or bar and be placed in a visible location that is convenient for use by the general public.

- b. The proposed use is compatible with the surrounding uses and outside entertainment shall not negatively impact adjacent residential uses.
- c. Outside entertainment shall conclude at 11:00pm or normal closing time of the restaurant or bar, whichever is earlier.
- d. The City Council may impose conditions limiting the number of days or times per week for outside entertainment if deemed necessary to ensure compatibility and consistency with code.
- e. Sufficiency of setbacks, screens, buffers and general amenities to preserve compatibility with adjacent uses and to control adverse effects of noise, lights, and other nuisances.

Sec. 3-122. Exceptions to minimum yard or lot coverage requirements.

Every part of every yard shall be open and unobstructed from the ground up, except as follows:

- (1) In the RR, RA, R-1 through R-8, MH-1, MH-5, and RPUD classifications, except for the provisions of chapter 5, article 3, accessory structures shall not be located in front yards. However, accessory structures may be located in rear or side yards not less than five feet from the lot lines except for atypical lots; and except where an accessory structure is 600 square feet or greater, in which case, an increased building setback of 15' is required from the side and rear property lines. However, garage apartments shall not be located in any required yard. On atypical lots, accessory structures may be located not less than five feet from the side lot line provided such structures, except for swimming pools, are not located in the side yard area between the rear lot line and the rearmost point of the principal structure. Accessory structures and swimming pools shall be located at least five feet from any side or rear lot line, but not in platted easements.
- (2) In the RR, RA, R-1 through R-6, MH-1, MH-5, and RPUD classifications, on double-frontage lots or corner lots, accessory structures shall not be located in any yard abutting a street but may be located not less than five feet from any adjacent lot line. However, where an accessory structure is 600 square feet or greater an increased building setback of 15' is required from the side and rear property lines.

Sec. 3-138. Accessory structures.

- (5) The number of accessory structures per lot and the maximum floor area for an accessory building shall be based on the size of the lot. The number and size of accessory structures is also controlled by the lot coverage maximum of the applicable zoning district. The total number of accessory structures per lot as provided below is not inclusive of swimming pools, swimming pool enclosures, fences or well houses. This provision is not applicable to ~~agriculture~~ agricultural zoned properties.

One-half acre or less: Limited to two accessory structures ~~and 600 square feet of floor area each,~~ Cumulative area of accessory structures cannot exceed 50% of the square footage of the principal structure and cannot exceed the maximum allowable lot coverage percentage.

Greater than one-half acre to one acre: Limited to three accessory structures ~~and 900 square feet of floor area each.~~ Cumulative area of accessory structures cannot exceed 50% of the square footage of the principal structure and cannot exceed the maximum allowable lot coverage percentage.

Greater than one acre to 2.5 acres: Limited to four accessory structures and 1,200 square feet of floor area each. Cumulative area of accessory structures cannot exceed 55% of the square footage of the principal structure and cannot exceed the maximum allowable lot coverage percentage.

2.5 acres or more: No limit on number of structures but limited to 1,500 square feet of floor area each cumulative area of accessory structures cannot exceed 60% of the principal structure, and cannot exceed the maximum allowable lot coverage.

Chapter 4 (Land Development Standards), Article II (Land Development), Division 7 (Stormwater Management),

Section 4-184 (Performance, review and design standards), Sub-Section (a)(2)a.

(2) For application for a standard development, the following performance standards are to be followed in the design of the project:

- a. Closed basin criteria. When a positive outfall is not available or discharge into a lake or other system without a positive outfall is proposed, the design shall retain the total volume or runoff from 100-year, 24-hour storm event (10.6 inches) for the post-developed site. Total recovery of the 100-year, 24-hour retention volume should occur within 14 days after the storm event. If infiltration credit during the storm even is included in the recovery analysis, seepage and infiltration rates will have to be certified by a geotechnical engineer licensed to practice law in the State of Florida. For those parcels two (2) acres or less abutting U.S. Highway 17/92, between Dirksen Drive and Saxon Boulevard, the stormwater management design shall retain the difference in pre- and post-development runoff volume for the 100-year, 24-hour storm event. Note, that if the parcel discharges into the existing U.S. Highway 17/92 storm sewer system, an FDOT Drainage Connection Permit will also be required to address the Department's Critical Duration Analysis. Total recovery of the retained volume must occur within 14 days after the storm event.