

This instrument prepared by:
 Debbie Banks and Betsy Driggers
 201 N 2nd Street
 Palatka, Florida 32177

ORDINANCE NO. 10 - 31

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING THE PALATKA MUNICIPAL CODE, CHAPTER 70, SIDEWALKS; CHAPTER 94, ZONING; AND APPENDIX A, FEE SCHEDULE OF THE PALATKA MUNICIPAL CODE REGARDING PLACING MERCHANDISE, BENCHES OR OTHER OBSTRUCTIONS IN SIDEWALK; PROVIDING FOR A PERMIT FEE; PROVIDING FOR FINES AND PENALTIES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Commission of the City of Palatka, Florida is charged with providing for the health and safety of its citizens: and

WHEREAS, the Palatka City Commission is authorized by Chapter 166, Florida Statutes, to adopt ordinances and resolutions necessary for the exercise of its powers to protect the health, safety, and general welfare of its citizens and to prescribe fines and penalties for the violations of ordinances in accordance with law; and

WHEREAS, the Palatka City Commission recognizes the need to enhance and encourage economic development opportunities in its Downtown Central Business District; and

WHEREAS, the Palatka City Commission, having held workshops and taken public comment on the matter, has recognized the need to revise Chapter 70 of its Code of Ordinances to allow for the placing of merchandise, seating, signs or displays on sidewalks by merchants in the Downtown Riverfront and Downtown Business Districts in order to promote economic development, with certain restrictions and requirements as set forth by this Ordinance in order to protect the citizens of the City of Palatka from any adverse affects of allowing such sidewalk displays and/or obstructions as prescribed by this Ordinance.

NOW THEREFORE BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1. That Chapter 70, Article II, Sidewalks, Division I, Section 31 shall be amended to read as follows:

Sec. 70-31. Placing merchandise, benches or other obstructions in sidewalk.

- (a) Except as otherwise provided in section 70-1, it shall be unlawful for any person to place, put or leave any goods, wares, merchandise, boxes, benches or other obstructions of any nature whatsoever on any part of the sidewalks along the streets of the city except that in the Downtown Riverfront (DR) and Downtown Business (DB) zoning districts business owners may obtain a permit to do so in conformance with the following conditions:
1. Merchandise may be placed on the city sidewalk up to two (2) feet outside of and beyond the property line housing the permanent retail operation not to exceed more than fifty percent (50%) of the building frontage.
 2. No sales may take place in the right-of-way.
 3. Placement of all merchandise must adhere to the requirements of the Americans with

- Disabilities Act and all other applicable standards. A path along the sidewalk at least 48 inches in width shall remain clear and free of obstructions at all times.
4. Displays of merchandise may not obstruct ingress to or egress from the building.
 5. No electricity may be used in conjunction with the display of merchandise, for artificial light or any other purpose. Electrical goods which are not plugged in may be displayed.
 6. All merchandise must be brought in at the close of business each day.
 7. All merchandise and supporting structures shall be kept clean and in good repair.
 8. Planters will be allowed to remain outside at all times provided they are at least 18" in height and maintained at all times.
 9. Real estate boxes, newspaper racks and package/letter drop-off containers must be permitted and installed to code.
 10. A-frame signs/sandwich signs/menu boards must be permitted
 11. Benches or seats for occupancy by persons may be placed and maintained on and along the sidewalks of the city provided they are maintained by the owner or occupant of the abutting property in a safe and sightly condition and no part thereof extends more than 2 ½ feet outside of and beyond the property line of such owner. No signage will be allowed on any portion of the bench or seat for occupancy.
 12. Open air dining on public sidewalks is allowed as a conditional accessory use in the DB and DR zoning districts and is subject to the following:
 - a. The 48" clear path referenced in paragraph A.3 above must be maintained.
 - b. No obstruction shall be placed within 18" of the face of any curb, within five feet of any fire hydrant, fire exit, or building entry.
 - c. Open air dining shall be allowed to exceed the 50% limitation of building frontage if approved by the Planning Board.
 - d. The storage and preparation of food or drinks is prohibited in the open air dining area.
 - e. In the event of foul weather including winds, all tables, chairs, table accessories, trash or other debris shall be secured or removed to the extent that same is reasonably possible, and so as to minimize the risk to public safety from flying debris, etc.
 - f. Any and all food and beverage spills shall be promptly cleaned up. All trash and debris within and around the open air dining area shall be picked up immediately and not allowed to collect, litter or blow into the public right-of-way.
 - g. Open air dining areas shall be sufficiently lighted so as to adequately illuminate the dining boundaries and adjacent pedestrian walkways in such a manner as to allow safe negotiation of potential obstructions with such areas.
 13. Each business owner placing anything on the city sidewalk must provide a Certificate of Insurance evidencing a policy of liability insurance naming the business owner as insured and naming the city as additional insured with regard to coverage for claims for personal injury, death, and property damage in the amount of \$500,000 per person and \$1,000,000 per accident for personal injury/death and \$300,000 for property damage.
 14. Each business owner placing anything on the city sidewalk must sign appropriate documents agreeing to hold the city harmless and indemnify the City against any claims, demands, suits, or causes of action, and against any costs incurred by the City in defending

itself against any of same, arising or allegedly arising from or as a result of the business owner's placement of anything on the city sidewalk as is otherwise permitted by this ordinance.

15. Goods and merchandise delivered to duly licensed merchants and operators of places of business in the city may be deposited and left on the sidewalks immediately in front of the places of business of such merchants and operators between the hours of 12:00 midnight and 8:00 a.m. of the next morning when and where any such place of business is not then open or has no storage area to receive such goods and merchandise at the time of delivery. The leaving of any goods or merchandise on the sidewalks of the city after 8:00 a.m. of the morning of delivery shall be and constitute a violation of this section by the merchant or operator of the place of business to whom such delivery is made.

(b) Violations:

1. First offense – written warning
2. Repeat offense - A fine of \$25 per occurrence will be charged for each day a violation of this ordinance is found following the initial warning.

- (c) Permit/Fee – No person or business owner shall place any item on the sidewalk in violation of the City's ordinances without having first obtained a permit issued by the City under the authority of this section. The application for such permit shall be accompanied by proof of insurance, hold harmless agreement and an indemnification statement. The permit fee shall be as set forth in Appendix A, Fee Schedule, Chapter 70. Permits will automatically renew in following years with the business owner's Business Tax Receipt. A new certificate of insurance and indemnification will be required each year.

SECTION 3: That Chapter 94, Zoning, Division III, Districts, Division 2, Section 161, DR Downtown Riverfront District, Paragraph (b) shall be amended to read as follows:

Sec. 94-162. DR downtown riverfront district.

- (b) *Permitted principal uses, activities, and structures.* Unless otherwise expressed herein, uses not specifically listed as permitted shall be prohibited. Sale, display preparation, and repair incidental to sales and storage shall be conducted on private property only with the exception of items allowed on the sidewalk per Section 70-31. Permitted principal uses, activities, and structures in the Downtown Riverfront District are as follows:

SECTION 4. That all other provisions under Chapter 94, Article III, Districts, Division 2, Section 161, Downtown Riverfront District, Paragraph (b) shall remain the same.

SECTION 5: That Chapter 94, Article III, Districts, Division 2, Section 162, DB Downtown Business District, Paragraph (b) shall read as follows:

Sec. 94-162. DB downtown business district.

(b) *Permitted principal uses, activities, and structures.* Unless otherwise expressed herein, uses not specifically listed as permitted shall be prohibited. Sale, display preparation, and repair incidental to sales and storage shall be conducted on private property only with the exception of items allowed on the sidewalk per Section 70-31. Permitted principal uses and structures in the downtown business (DB) district are as follows:

SECTION 6. That all other provisions under Chapter 94, Article III, Districts, Division 2, Section 162, DB Downtown Business District, Paragraph (b) shall remain the same.

SECTION 7: That Appendix A, Fee Schedule, shall be amended to add the following:

Chapter 70. Streets, Sidewalks and Other Public Places

70-31(c). Permit fee for placing wares/items on sidewalk in DB and DR zoning districts.....\$25

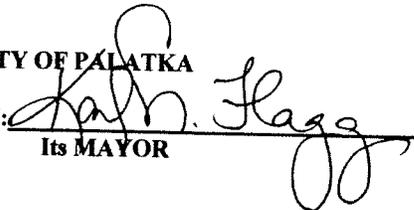
SECTION 8. That all other provisions under Appendix A shall remain the same.

SECTION 9. Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and shall not affect the validity of the remaining portion.

SECTION 10. A copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

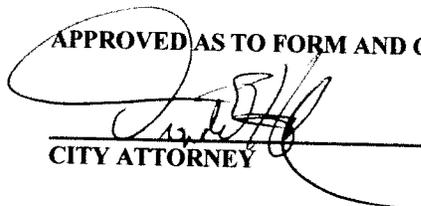
SECTION 11. This Ordinance shall become effective upon passage as provided by law.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this **28th** day of **October, 2010.**

CITY OF PALATKA
BY: 
Its **MAYOR**

ATTEST:


CITY CLERK

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY