

ORDINANCE NO. 2024-31

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
2 OF ORLANDO, FLORIDA, RELATING TO NIGHTCLUBS  
3 WITHIN THE DOWNTOWN ENTERTAINMENT AREA  
4 AND SPECIAL USE PERMITS FOR LATE NIGHT USES  
5 WITHIN THE DOWNTOWN ENTERTAINMENT AREA;  
6 AMENDING CHAPTER 58, PART 1B, OF THE LAND  
7 DEVELOPMENT CODE, ENTITLED ZONING TABLES;  
8 AMENDING CHAPTER 58, PART 4B, OF THE LAND  
9 DEVELOPMENT CODE, ENTITLED ALCOHOLIC  
10 BEVERAGE ESTABLISHMENTS; AMENDING CHAPTER  
11 65, PART 5A, SECTION 65.544 OF THE LAND  
12 DEVELOPMENT CODE, ENTITLED LATE NIGHT USES  
13 IN THE DOWNTOWN ENTERTAINMENT AREA;  
14 PROVIDING LEGISLATIVE FINDINGS, AND FOR  
15 CODIFICATION, CORRECTION OF SCRIVENER'S  
16 ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.  
17

18 **WHEREAS**, section 163.3202(1), Florida Statutes, requires that the city of  
19 Orlando, Florida (the "city"), adopt or amend and enforce land development regulations  
20 that are consistent with and implement the city's adopted comprehensive plan; and  
21

22 **WHEREAS**, section 163.3202(3), Florida Statutes, encourages the use of  
23 innovative land development regulations and requires that all land development  
24 regulations be combined into a single land development code for the city; and  
25

26 **WHEREAS**, from time to time, amendments and revisions to the city's adopted  
27 comprehensive plan (the "Growth Management Plan"), progress in the field of planning  
28 and zoning, or changes to state law make it necessary or desirable to amend the land  
29 development regulations of the city; and  
30

31 **WHEREAS**, at its regularly scheduled meeting of June 18, 2024, the city's  
32 Municipal Planning Board (the "MPB") considered application case number LDC2024-  
33 10003 requesting amendments to the city's Land Development Code (the "LDC") to  
34 address the overconcentration of nightclubs within the Downtown Entertainment Area by  
35 implementing a 300 foot distance separation between nightclubs situated within the DEA,  
36 along with standards for how distance is measured, approval processes and review criteria  
37 for new nightclubs, existing nightclubs closed for remodeling or rebranding, and  
38 expansions of existing nightclubs. Moreover, with the addition of the new requirements  
39 related to nightclubs within the DEA, there is no longer a need for Late Night Uses to  
40 obtain a Special Use Permit.  
41

42 **WHEREAS**, the LDC amendments are necessary to manage the effects of a high  
43 concentration of nightclubs within the DEA: such as noise, trash, cruising, loitering by non-  
44 patrons, and disorderly conduct; and to further encourage a mix of diverse, active daytime  
45 uses within the DEA; and

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**WHEREAS**, based upon the evidence presented to the MPB, including the information and analysis contained in the “Staff Report to the Municipal Planning Board” for the application, the MPB recommended that the City Council of the City of Orlando, Florida (the “Orlando City Council”), approve said application and adopt an ordinance in accordance therewith; and

**WHEREAS**, the Orlando City Council hereby finds and determines that this ordinance is in the best interest of the public health, safety, and welfare, and is consistent with the applicable provisions of the State Comprehensive Plan, the Strategic Regional Policy Plan, and the City’s GMP; and

**WHEREAS**, in accordance with section 65.483 of the Land Development Code, the Orlando City Council hereby finds and determines that this ordinance is consistent with the applicable provisions of the city’s adopted Growth Management Plan, is in the best interest of the public health, safety, and welfare, is in harmony with the purpose and intent of the city’s Land Development Code, will not result in disorderly and illogical development patterns, and will not result in incompatible land uses; and

**WHEREAS**, the Orlando City Council hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare.

**NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:**

**SECTION 1. CHAPTER 58, PART 1B, AMENDED.** Chapter 58, Part 1B, Land Development Code, entitled Zoning Tables, is hereby amended as follows:

**1B. - ZONING TABLES**

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**FOOTNOTES:**

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40. A Planning Official Determination is required for all new or expanding businesses when distance separation requirements apply. Uses operating after midnight may require a ~~Special Use Permit per Section 65.544, Land Development Code,~~ or an After Midnight Alcohol Sales Permit per Section 33.03, Orlando City Code.

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89           **SECTION 2. CH 58, PART 4B, AMENDED.** Chapter 58, Part 4B, Land  
90 Development Code, entitled Alcoholic Beverage Establishments, is hereby amended as  
91 follows:  
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93 **4B. - ALCOHOLIC BEVERAGE ESTABLISHMENTS<sup>[12]</sup>**  
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95 **Sec. 58.705. - General Requirements.**  
96

97           A.       All alcoholic beverage establishments with on-site consumption must be  
98 categorized as one of the following, listed in order from least intensive  
99 to most intensive use:

- 100
- 101           1.    Public facility as listed in Sec. 33.02 (e.g. Amway Center, DPAC)
  - 102
  - 103           2.    Accessory to an assembly public benefit use (museums, churches,  
104                etc.)
  - 105
  - 106           3.    Accessory to a business with a lawful certificate of use
  - 107
  - 108           4.    Restaurant
  - 109
  - 110           5.    Hotel
  - 111
  - 112           6.    Recreation (Use), Indoor Intensive (banquet halls, sport clubs, etc.)
  - 113
  - 114           7.    Micro-brewery, Micro-winery, Craft distillery, or Brewpub
  - 115
  - 116           8.    Bar
  - 117
  - 118           9.    Nightclub
  - 119

120           The use must be categorized as the most intensive use for any activity at  
121 the location, even if it is for temporary events or limited hours. As part of  
122 the local zoning review required for any state alcoholic beverage license,  
123 the applicant must request a Zoning Official Determination to review the  
124 floor plan, a description of operations, and other information to categorize  
125 the use.  
126

127           B.    Bottle Clubs, as defined in Chapter 66 of the Land Development Code, are not  
128 permitted as a principal use within any zoning district of the City of Orlando.  
129

130           C.    Catering, the use of a catering license or hiring a caterer does not constitute  
131 proof as a full-service restaurant and may not be used to meet the separation or  
132 other requirements of this part.  
133

134           D.    A Zoning Official determination is required for all new or expanding Alcoholic  
135 Beverage Establishments located within 300 ft. of a residential zoning district.  
136 Additional consideration will be taken to ensure that the site is arranged in such  
137 a way, that the building is constructed in such a way, and that the business  
138 operations are so conducted as to prevent the emission of sounds, vibrations

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and odors from the establishment into the aforementioned residentially zoned districts. These considerations may include those as detailed in Section 58.709.

- E. Expansions or alterations to a previously approved alcoholic beverage establishment which increases the size or patron capacity of the establishment, or increases the intensity of the use as listed in A above, must receive either a new Letter of Determination from the ~~Zoning~~ Planning Official or a new Conditional Use Permit, as required. With the exception of those alcoholic beverage sales specifically limited as detailed in Sec. 58.707, the change in the type of alcoholic beverages sold or change in the type of State license the facility has will not automatically require any new approval through this part as long as all other aspects of the establishment and operations remain as previously approved.
- F. None of the regulations of this part shall be construed as approving any use, location, hours of operation, or other standard that is in conflict with Chapter 33 of this Code.
- G. A restaurant that serves alcoholic beverages must meet all of the following criteria. If any criteria are not met, it must be reclassified as a more intense use as listed in Section 58.705(A) above.
  - 1. Alcoholic beverages may only be consumed or sold in connection with the consumption or sale of food during all hours of operation. An accessory bar area in which alcoholic beverages are served and consumed without the accompanying sale and consumption of food is allowed, provided all other criteria are met.
  - 2. Food must be continuously ready to be prepared, served, and sold during all times alcoholic beverages are sold. The facility must have permanent kitchen facilities located within the premises in which meals are regularly prepared for service to patrons of the establishment.
  - 3. Tables and chairs for seated meals must remain in place during all hours of operation.
  - 4. The restaurant must not have a cover charge.
  - 5. The restaurant must be licensed as a restaurant by the State of Florida, pursuant to Chapter 509, Florida Statutes.
  - 6. The restaurant must derive at least 51% of its gross revenues from the sale of food and nonalcoholic beverages.
  - 7. The restaurant must promptly provide all records of food and alcoholic beverage sales to the City, as described in Section 58.709(E) upon request by the City.

H. Nightclubs.

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1. A new nightclub, or an expansion of a legally approved existing nightclub, is prohibited on properties located within the Downtown Entertainment Area (See Chapter 42, Figure 1) if the new nightclub or expansion of a legally approved nightclub is located within 300 feet of any other legally approved nightclub.
  2. The distance shall be measured by the shortest and most direct bearing distance from the property line of any nearby nightclub to the property line of the proposed new nightclub or expansion of a legally approved nightclub.
  3. Any proposal to open a new nightclub or expand a legally approved existing nightclub must be reviewed and approved by the Planning Official to determine compliance with the distance separation requirements.
  4. Any nightclub that has been approved subject to this part must receive a certificate of use within two years from the date of the Planning Official determination. Such nightclubs shall be considered existing uses for purposes of establishing distance separation requirements for other nightclub requests. If a certificate of use has not been issued within two years of the date of the Planning Official Determination, the approval will automatically expire, and the applicant must re-apply.
  5. The Planning Official may extend the Planning Official Determination timeframe by up to 60 days if evidence is provided that the project is nearing completion.
  6. Any legally existing nightclub operating as of the effective date of this ordinance may remain as a legal non-conforming use subject to Chapter 58, Part 7D. However, it may not be expanded unless distance separation requirements are met.
  7. Legally existing nightclubs may close for remodeling or re-branding as a new nightclub concept for a period of up to six (6) months from the closure date. Such nightclubs shall be considered existing uses for purposes of establishing distance separation requirements for other nightclub requests. After the six (6) month time frame has elapsed, if a certificate of use has not been issued to the legally existing nightclub, the approval will expire and the applicant must obtain a new Planning Official determination, unless a Conditional Use Permit is approved pursuant to Chapter 65, Part 2D, extending the timeframe for obtaining a certificate of use.
  8. The right to own and operate a legally existing nightclub shall apply to the real property and remain with the land even if the legally existing nightclub is sold to a new owner or operated by a different management company. However, this right shall automatically expire and cease to remain with the land if the legally existing nightclub ceases operations for a period of six (6) months or more, unless a Conditional Use Permit extending this timeframe is approved pursuant to Chapter 65, Part 2D.

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- 239 9. For purposes of identifying legally existing nightclubs, the City will maintain  
240 an inventory of all nightclubs operating as of the effective date of this  
241 ordinance. The inventory list will be updated as new nightclubs or  
242 expansions of legally existing nightclubs are approved and legally existing  
243 nightclubs close.

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247 **Sec. 58.709. - Approval for Alcoholic Beverage Establishments That do not Meet**  
248 **the Distance Separation Requirements.**

249  
250 All proposed establishments located within one or more of the distance  
251 separation areas (except for required separation between nightclubs) must seek  
252 approval to operate within such area. The specific approval process is based on the  
253 proposed location, proximity to churches, schools or residentially-zoned districts, and  
254 type of establishment as detailed below:

255 \*\*\*

256  
257 **Secs. 58.710—58.719. - Reserved.**

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259 **SECTION 3. CHAPTER 65, PART 5A, AMENDED.** Chapter 65, Part 5A, Land  
260 Development Code, entitled General Requirements, is hereby amended as follows:

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262  
263 **Sec. 65.544. - Late Night Uses in the Downtown Entertainment Area.**

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266 ~~All uses open between the hours of midnight and 6:00 a.m. within the Downtown~~  
267 ~~Entertainment Area, as described in section 42.07(6), Orlando City Code, are~~  
268 ~~considered a Late Night Use and, subject to subparagraph (a) below, must obtain a~~  
269 ~~Special Use Permit from the Planning Official.~~

- 270  
271 (a) ~~General Requirements.~~ Except for uses that require an After Midnight  
272 ~~Alcohol Sales Permit per section 33.03, Orlando City Code, a Special~~  
273 ~~Use Permit is required for new Late Night Uses and for existing Late~~  
274 ~~Night Uses that apply for a new certificate of use, a permit for a~~  
275 ~~substantial improvement, or that begin operating between the hours of~~  
276 ~~midnight and 6:00 a.m. after the effective date of this section. A Special~~  
277 ~~Use Permit is also required when there is a change in ownership for an~~  
278 ~~existing Late Night Use. An applicant shall submit a Special Use Permit~~  
279 ~~application as provided by the Planning Official.~~

- 280  
281 (b) ~~Review Considerations.~~ In reviewing an application, the Planning Official  
282 shall consider the following as part of the Special Use Permit review:

- 283  
284 1) ~~Description of the Operations.~~ The description shall be  
285 ~~accompanied by floor and site plans of the establishment. The~~  
286 ~~description and plans shall clearly indicate locations for any~~  
287 ~~dancing, live music, DJ's, (assembly areas), identify all seating~~  
288 ~~and bar areas, and identify any proposed tenant improvements.~~

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- 289 The site plan shall include exterior improvements (whether  
290 permanent or temporary), including the use of the public rights-  
291 of way (proposed sidewalk cafes, queuing lines, barriers,  
292 podiums, or any other appurtenances used). The description  
293 shall include whether any persons under the age of 21 will be  
294 allowed within the premises, and the proposed plans for  
295 checking ID's.
- 296
- 297 2) ~~Alcohol Licensing. The type of alcohol license, and copies of any~~  
298 ~~applications, including attachments and exhibits, submitted to the~~  
299 ~~State of Florida (such as site plans defining the premises). A~~  
300 ~~catering license shall not be utilized for a bar or nightclub~~  
301 ~~operation.~~
- 302
- 303 3) ~~Security Plan. A security plan must be maintained by the~~  
304 ~~establishment, though it is not required to be submitted as part of~~  
305 ~~the application. The security plan should include the location and~~  
306 ~~operation of doormen, in-house security and any third-party~~  
307 ~~security guards for the establishment (including any off-duty~~  
308 ~~police officers). The plan should also include details, at~~  
309 ~~minimum, for weekend and weekday operations based on the~~  
310 ~~anticipated attendance.~~
- 311
- 312 4) ~~Outdoor Speakers. Any outdoor speakers shall be identified on a~~  
313 ~~separate site plan, and be accompanied by a noise report~~  
314 ~~detailing compliance with the Noise Ordinance (see~~  
315 ~~Chapter 62.506).~~
- 316
- 317 5) ~~Crime Prevention. The site and floor plans shall apply the~~  
318 ~~principles of Crime Prevention Through Environmental Design~~  
319 ~~(CPTED), including but not limited to, provision of exterior~~  
320 ~~lighting improvements, security cameras, and other physical~~  
321 ~~improvements.~~
- 322
- 323 (c) ~~Standards of Review. The Planning Official shall review and approve, —~~  
324 ~~approve with conditions, or deny an application for a Special Use Permit~~  
325 ~~based upon the Review Considerations provided above. When~~  
326 ~~reviewing an application, the Planning Official may request additional —~~  
327 ~~information from the applicant if necessary for a complete and adequate~~  
328 ~~analysis of the request.~~
- 329
- 330 (d) ~~Conditions of Approval. The Planning Official may impose reasonable —~~  
331 ~~conditions of approval for the Special Use Permit such as sound —~~  
332 ~~attenuation, buffering, CPTED improvements, or other conditions to~~  
333 ~~increase safety, ensure compatibility of uses, and reduce public~~  
334 ~~nuisances.~~
- 335
- 336 (e) ~~Appeals. If an applicant disagrees with the Planning Official's decision~~  
337 ~~on a Special Use Permit or any condition thereof, the applicant may~~

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338 appeal to the Municipal Planning Board in accordance with Part 2G  
339 herein.

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341 **Secs. 65.5445—65.549. - Reserved.**

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343 **SECTION 4. CODIFICATION.** The city clerk and the city attorney shall cause the  
344 Code of the City of Orlando, Florida, to be amended as provided by this ordinance and  
345 may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to  
346 facilitate the finding of the law.

347  
348 **SECTION 5. SCRIVENER'S ERROR.** The city attorney may correct scrivener's  
349 errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

350  
351 **SECTION 6. SEVERABILITY.** If any provision of this ordinance or its application  
352 to any person or circumstance is held invalid, the invalidity does not affect other provisions  
353 or applications of this ordinance which can be given effect without the invalid provision or  
354 application, and to this end the provisions of this ordinance are severable.

355  
356 **SECTION 7. EFFECTIVE DATE.** This ordinance takes effect on September 21,  
357 2024 at 12:00 a.m.

358  
359 **DONE, THE FIRST PUBLIC NOTICE,** in a newspaper of general circulation in  
360 the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this \_\_\_\_\_  
361 day of \_\_\_\_\_, 2024.

362  
363 **DONE, THE FIRST READING AND HEARING,** by the City Council of the City of  
364 Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

365  
366 **DONE, THE SECOND PUBLIC NOTICE,** in a newspaper of general circulation in  
367 the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this \_\_\_\_\_  
368 day of \_\_\_\_\_, 2024.

369  
370 **DONE, THE SECOND READING AND HEARING, AND ENACTED ON FINAL**  
371 **PASSAGE,** by an affirmative vote of a majority of a quorum present of the City Council  
372 of the City of Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of  
373 \_\_\_\_\_, 2024.

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376 BY THE MAYOR OF THE CITY OF  
377 ORLANDO, FLORIDA:

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379 \_\_\_\_\_  
380 Mayor  
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ATTEST, BY THE CLERK OF THE  
CITY COUNCIL OF THE CITY OF  
ORLANDO, FLORIDA:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Print Name

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF ORLANDO, FLORIDA:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Print Name