

**CITY OF PALM BEACH GARDENS  
CITY COUNCIL  
Agenda Cover Memorandum**

**Meeting Date: September 22, 2021  
Ordinance 10, 2021**

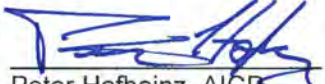

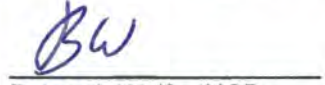


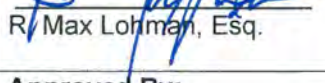
**Subject/Agenda Item:**

**Amendment to the City's Land Development Regulations**

**Adoption Hearing and Second Reading:** A City-initiated request to amend Chapter 78 - Land Development, Article V - Supplementary District Regulations, Section 78-191 – Outdoor Seating and Section 78-345 – Number of parking spaces required.

**[X] Recommendation to APPROVE**

**[ ] Recommendation to DENY**

<b>Reviewed by:</b> Assistant Director of Planning and Zoning	<b>Originating Dept.:</b> Planning & Zoning: Project Manager	<b>Finance:</b> Accountant <u>N/A</u> Tresha Thomas	<b>Council Action:</b> <input type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Continued to: _____
 Peter Hofheinz, AICP	 Martin L. Fitts, AICP Principal Planner	<b>Fees Paid:</b> <u>N/A</u>	
Development Compliance and Zoning Manager  Bahareh Wolfs, AICP	<input type="checkbox"/> Quasi – Judicial <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Public Hearing	<b>Funding Source:</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Other <u>N/A</u>	
Director of Planning and Zoning  Natalie M. Crowley, AICP	<b>Advertised:</b> <input checked="" type="checkbox"/> Required <input type="checkbox"/> Not Required Date: 9/7/2021 Paper: Palm Beach Post	<b>Budget Acct. #:</b> <u>N/A</u>	<b>Attachments:</b>
City Attorney  R. Max Lohman, Esq.		Effective Date: <u>N/A</u>	- Ordinance 10, 2021
		Expiration Date: <u>N/A</u>	- PGA Corridor Association letter dated 8/3/2021
<b>Approved By:</b> City Manager  Ronald M. Ferris	<b>Affected parties:</b> <input type="checkbox"/> Notified <input checked="" type="checkbox"/> Not Required		- Palm Beach North Chamber of Commerce letter dated 8/4/2021



## **EXECUTIVE SUMMARY**

A City-initiated request to amend the City's Land Development Regulations (LDR), Chapter 78. Land Development, Article V. Supplementary District Regulations, Section 78-191. Outdoor seating and to amend Section 78-345. Number of parking spaces required. These updates are based on a shift in dining preferences by restaurant guests to dine outside and recognize changes in transportation preferences to include mobility options. Based on these environmental changes, City Staff has identified certain areas within the outdoor seating and parking codes that could be modernized. Additionally, Staff has streamlined the outdoor seating approval process to a permit process, similar to the current Special Event permit process, that is simpler for applicants to apply for, faster on average for review, and more cost efficient than the current approval process. The proposed changes will allow more flexibility for restaurant owners and staff in reviewing and approving outdoor seating within the City.

## **BACKGROUND**

On October 21, 2010, the City Council adopted Ordinance 19, 2010, amending Section 78-191. Outdoor seating.

Due to the COVID-19 pandemic, the Governor of Florida enacted Executive Orders shutting down restaurants to halt the spread of the virus. The Governor later issued another Executive Order allowing restaurants to reopen only for takeout or outdoor seating to allow for social distancing. The City temporarily streamlined the outdoor seating review process for requests for expansion of outdoor seating to accommodate the Governor's Executive Orders. The ever-shifting trends in dining and traffic preferences resulting from the pandemic create a need for flexibility in conditions regarding outdoor seating.

The expanded outdoor seating approvals will expire on September 30, 2021. City Staff took the opportunity to review the outdoor seating code and identified areas that could be modernized to reflect the shift in dining preferences. Staff has performed research on the existing outdoor seating regulations and prepared the proposed LDR text amendments.

Staff has coordinated with the Palm Beach North Chamber of Commerce and the PGA Boulevard Corridor Association regarding the draft outdoor seating LDR text amendments. The Chamber and Corridor Association have reviewed the draft amendment, provided input, and have expressed support for the proposed changes.



## PROPOSED AMENDMENTS

### Subpart B

## LAND DEVELOPMENT REGULATIONS

### Chapter 78

## LAND DEVELOPMENT

### **Sec. 78-191. - Outdoor seating.**

For the purpose of this section, *serve* or *service* shall mean the act of a waiter, waitress, or employee of the food service establishment taking food or beverage orders and providing delivery of food or beverages to the patrons seated area.

- (a) *Applicability.* Outdoor seating shall be permitted as an accessory use to a restaurant, business, or institution serving food or beverages in an enclosed area, subject to the standards listed below.
- (1) *Access.* The outdoor seating area is adjacent to, and has direct access through, a doorway to that portion of the business or institution which is enclosed.
  - (2) *Location.* The outdoor seating is located ~~directly~~ adjacent to the restaurant or food service establishment and is owned or leased for this purpose.

**Staff Comment:** This change will allow restaurants to request outdoor seating in proximity to the restaurant without being immediately adjacent to the restaurant, thereby allowing more flexibility, especially with end-unit tenant spaces.

- (3) *General circulation.* The outdoor seating can be accommodated without impeding the access of the general public to one (1) or more of the following:
  - a. The enclosed portion of the restaurant or food service establishment;
  - b. Any other use located within the same building or structure; or
  - c. Any unauthorized common elements shared by the restaurant or food service establishment and any other users of the same building or structure.

**Staff Comment:** This addition allows for the property owner to approve a proposed outdoor seating plan that may expand into some common elements. City Staff will continue to review all proposals to ensure life safety, access, and security elements are addressed appropriately.

- (4) *Safety.* Outdoor seating shall comply with all building, fire, and safety code requirements.



- (5) *Parking*. Parking for areas utilized for outdoor seating, with or without service, shall be calculated and provided as required in ~~division 9 of article V, except for outdoor seating areas meeting the provisions of subsection a,~~ outlined below. Outdoor seating shall not be established if required parking cannot be provided on site or if a nonconformity is created.
- a. Outdoor seating areas, without service, which constitute no more than twenty-five (25) percent of the gross floor area (GFA) of the restaurant, business, or institution serving food or beverages, shall be exempt from the parking requirements set forth at division 9 of article V. Outdoor seating areas, without service, consisting of more than twenty-five percent of the GFA shall provide parking for the entire outdoor seating area at a rate of 1 space per 250 SF GFA of the outdoor seating area.
  - b. Outdoor seating areas, with service, shall provide parking at a rate of 1 space per 250 SF GFA of the outdoor seating area.
  - c. Reduced parking may be requested for outdoor seating with the provision of alternatives that reduce the need for the parking spaces. Such alternatives may include providing additional ride-share drop-off / pick-up spaces, micro-mobility technology spaces, or similar technologies that may be developed in the future. A mobility study shall be provided for Staff review to demonstrate the reduced parking need.
  - d. Indoor seating area may be restricted to be replaced by outdoor seating area on a per-square-foot basis without increasing the required number of parking spaces as approved with the Outdoor Dining Permit and indicated on the site plan.

**Staff Comment:** Meeting the City's minimum parking requirements is the primary limiting factor for outdoor seating. Staff is recommending increasing the amount of outdoor seating, without service that is exempt from parking requirements as the use is functionally similar to a takeaway or quick-service restaurant with regards to the number of customers parking. Additionally, the number of employees required to be parked does not automatically increase with the number of outdoor seats without service. Staff is also recommending amending the parking rate for restaurants to an inside rate of 1 space per 150 square feet of customer service area + 1 space per 250 square feet of GFA for employees and an outdoor seating rate of 1 space per 250 square feet of outdoor seating area. The amended rates recognize the changing nature of the restaurant industry and evolving mobility patterns along with the City's recent experience during the temporary expansion of outdoor seating in response to the Covid Pandemic. Finally, Staff is adding an option to request reduced parking with the provision of elements that reduce the need for parking, such as ride-share drop-off spaces or micro-mobility options such as electric bicycles or small personal mobility devices, with a mobility review analysis.



- (6) *Outdoor furniture.* Furniture that is designed as outdoor furniture, which can withstand the elements, rain and intense sun, shall be used.
- (b) *Review.* Outdoor seating may be included as an element of an overall application for development order approval or as an amendment to an existing development order through an Outdoor Dining Permit application. Any outdoor bars that are visible from any public right-of-way must receive approval from city council. In addition to any other requirements contained herein, each application for approval of outdoor seating shall include the information listed below.

**Staff Comment:** This change allows for the addition of outdoor seating to existing restaurants to be reviewed at a Staff level with an outdoor dining permit. The outdoor dining permit is a new process similar to the existing special event permit process that will allow for a faster review time when compared to the current Administrative Approval petition process. Also, the outdoor seating permit will cost less than the current process

- (1) *Site plan.* A site plan, at a scale acceptable to the city, illustrating how the outdoor seating may be reasonably accommodated and ~~which~~ indicates the following:
- The building for which the outdoor seating is proposed;
  - The location of the restaurant or food service establishment;
  - The proposed location of the outdoor seating, including number of tables and chairs, any fencing, screening, or materials to separate the seating area;
  - The location of any sidewalks or other pedestrian walkways or passageways adjacent to or affected by the proposed outdoor seating, and the location of all existing or additional parking to be provided for the seating; and
  - If applicable, a copy of a valid and current state alcoholic beverage license to serve alcohol where the proposed outdoor seating will be, or any other license or permit required by the city for operation.
  - The location of any indoor seating area that is being restricted and replaced by outdoor seating area.

**Staff Comment:** This change clarifies that the site plan provided with the outdoor seating permit application should indicate how the outdoor seating will be reasonably accommodated and where the indoor seating to be moved to outdoor seating, if any, will be taken from inside.

- (2) *Consent.* A copy of the written consent of the individual, corporation, or other entity that owns the property upon which the outdoor seating will be located.



- (3) *Indemnification.* The applicant shall provide, in a form acceptable to the city attorney, indemnification of the city for any liability for personal injury and property damage due to the approval or existence of the outdoor seating.
  - (4) *Renderings.* Photographs, renderings, elevations, samples, and other materials as may be required by the city which illustrate the following: the style and color of all furnishings and menu boards, and the color, style, and materials used for storage, fencing, screening, or otherwise separating the outdoor seating.
  - (5) *Alcohol.* Alcoholic beverages may be consumed in the outdoor seating area provided the primary operation is licensed to serve alcoholic beverages in accordance with chapter 6, alcoholic beverages.
- (c) *Minimum standards.* Outdoor seating shall, at a minimum, comply with the standards listed below.
- (1) *Walkways.* Outdoor seating shall be arranged, when in use, in a manner that provides pedestrian accessibility, maintains compliance with the Americans with Disabilities Act (ADA), and meets all building codes.
  - (2) *Multiple tenants.* Outdoor seating located on a pedestrian walkway which provides access to more than one (1) occupant of a building shall provide an unobstructed passageway of at least six (6) feet in width. The unobstructed passageway shall be located adjacent to, but not through, the outdoor seating area.
  - (3) *Location.* Outdoor seating shall be located only ~~along the frontage of adjacent to~~ the affected restaurant or food service establishment, and shall not be located in front of or adjacent to any other user or tenant, unless otherwise ~~previously~~ approved by the growth management director.
  - (4) *Prohibited location.* Outdoor seating shall not be located within any area designated for parking.
  - (5) *Fencing or screening.* Fencing or screening may be required as a means to physically separate such use from any adjacent public passageway, street, or community as a means for public safety and to avoid nuisance. When outdoor seating is proposed adjacent to parking spaces or drive aisles, safety elements such as bollards or reinforced planters will be utilized to prevent vehicle intrusion. In areas located within a courtyard or developments that are designed to accommodate the outdoor seating in a safe manner, fencing or screening may not be necessary.

**Staff Comment:** These changes allow for flexibility in placement of outdoor seating based on the conditions of the site and reinforce the need to maintain compliance with the requirements of the Americans with Disabilities Act. In consultation with the Police Department and pursuant to CPTED principles, additional clarification was added regarding the requirement to provide safety equipment for seating in proximity to vehicle use areas.



- (6) *Compatibility.* Outdoor seating, including fencing and screening materials, shall be compatible in color and style with the exterior of the building. Signs, lettering, or advertising, excluding permitted menu board, shall not be attached to outdoor seating. Small labels may be permanently attached to the furnishing to identify ownership for security purposes.
- (7) *Storage.* Outdoor seating and furnishings shall be stored in a secure manner when not in use. If seating and furnishings are stored outside, solid colored tarps shall be used to cover. Heaters and other seasonal equipment shall not be visible from the public right-of-way when not in use.
- (8) *Hours of operation.* Excluding outdoor seating located in inner courtyards, outdoor seating, with or without service, shall comply with the hours of operation noted below.
  - a. *Sunday through Wednesday.* All sales and service of food and beverages are prohibited between the hours of 10:30 p.m. and 7:00 a.m.
  - b. *Thursday through Saturday.* All sales and service of food and beverages are prohibited between the hours of 11:30 p.m. and 7:00 a.m.
- (9) *Dog-Friendly Dining.* Restaurants may allow patrons' dogs within outdoor seating areas with a dog-friendly dining permit pursuant to Chapter 14 – Animals, Article III. – Dog-Friendly Dining of the City's Code of Ordinances.
- (10) *Live Entertainment.* Live entertainment in outdoor seating areas may be allowed with a live entertainment permit pursuant to Section 78-194 of the City's Code of Ordinances.

**Staff Comment:** These changes provide a cross-reference to Dog-Friendly Dining and Live Entertainment in outdoor seating spaces.

- (d) *Exemptions.* The following are exempt from formal review of outdoor seating but shall comply with section 78-191(a), applicability:
  - (1) *Casual seating without service.* Businesses, institutions, or uses that serve food or beverages solely inside may have outdoor casual seating, such as a bench or tables and chairs, and shall meet all accessibility standards.
  - (2) *De minimus standard.* Businesses, institutions, or uses that serve food or beverages may be approved to serve food for outdoor seating by a maximum of ~~two three~~ (23) tables (~~eight twelve~~ (812) seats) or no more than ~~one two~~ hundred (100200) square feet, whichever is less, provided they meet all accessibility standards.

**Staff Comment:** This change increases the de minimus standard for outdoor seating with service that does not have to meet parking standards due to the minimal impact on the parking generation.



**Sec. 78-345. – Number of parking spaces required**

Subsections (a) through (d) shall remain in force and effect as adopted.

Table 33: Required Off-Street Parking Spaces

Use/Category	Spaces Required	Notes
RESIDENTIAL		
Omitted for Brevity		
RETAIL & COMMERCIAL		
Omitted for Brevity		
Recreational Vehicle Park	1 space per RV parking space 1 space per camping cabin 1 space per 500 square feet of administrative, maintenance, or commercial space 2 spaces per security dwelling	
Restaurant, General	1 space per 150 gross square feet including outdoor seating, plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Fast Food (with or w/o Drive-through)	1 space per 150 gross square feet including outdoor seating plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Specialty	1 space per 150 gross square feet including outdoor seating, plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Quality	1 space per 150 gross square feet including outdoor seating, plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Take Out	1 space per 150 gross square feet including outdoor seating, plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Retail, General	1 space per 250 square feet	



Omitted for Brevity
PERSONAL SERVICES
Omitted for Brevity
OFFICE
Omitted for Brevity
PUBLIC AND INSTITUTIONAL
Omitted for Brevity
CULTURAL, ENTERTAINMENT, AND RECREATIONAL
Omitted for Brevity
WHOLESALE
Omitted for Brevity
INDUSTRIAL AND MANUFACTURING
Omitted for Brevity
TRANSPORT, UTILITIES, & COMMUNICATIONS
Omitted for Brevity
RESOURCES PRODUCTION AND EXTRACTION
Omitted for Brevity
OTHER
Omitted for Brevity

**Staff Comment:** This change removes outdoor seating from the calculation of the parking required for indoor square footage. Parking rates for outdoor seating are provided in Section 78-191.

## **STAFF ANALYSIS**

During the Covid-19 global pandemic, restaurants in the City struggled to maintain operations with the restrictions on indoor seating and social distancing required to combat the pandemic. Consistent with State Emergency Orders, the City implemented a temporary program to allow additional outdoor seating for the restaurants in the City. This program is coming to an end on September 30, 2021, due to the repeal of the State Emergency Orders.

Based on Staff's analysis of the expanded outdoor seating allowance and requests from the business community to be allowed additional outdoor seating options on a permanent basis, Staff conducted a thorough review of the outdoor seating code, Section 78-191, and a comparison of the Codes of other municipalities. Following this review, Staff determined that there are options for modernizing the Code to allow flexibility in where outdoor seating may be located, update the parking requirements for outdoor seating areas, and add cross references to existing code sections on live entertainment and dog-friendly dining.



The outdoor seating permit process is similar to the special events permit review process and will allow Staff to perform a thorough analysis of the impacts of expanding outdoor seating for existing restaurants, including access management, safety, and parking. The updates to the parking requirements reflect changes in mobility options that reduce the overall number of vehicles that will be parked. The number of tables and chairs determined to be de minimis was increased to further reflect the impact of changes in mobility patterns. Additionally, the proposed changes allow for flexibility to adapt to future technologies as well. The proposed amendments also reflect changes in dining habits within the restaurant industry by allowing restaurants to shift existing indoor seats to an outdoor seating area to adapt to customer preferences.

The proposed amendments allow restaurants and Staff more flexibility in providing outdoor seating to meet the increased demand while maintaining accessibility, safety, and adequate parking.

#### **COORDINATION WITH THE BUSINESS COMMUNITY:**

Staff coordinated with the Palm Beach North Chamber of Commerce and the PGA Corridor Association regarding the proposed Code amendments to determine the potential impacts and to identify areas of concern. The Chamber and the Corridor Association assisted Staff by providing outreach to member businesses, relaying feedback at meetings, and providing Letters of Support for the final amendment language.

#### **PLANNING, ZONING, AND APPEALS BOARD:**

The Planning, Zoning, and Appeals Board heard the petition at the August 10, 2021, public hearing, and recommended approval by a vote of 7 to 0.

#### **CITY COUNCIL:**

The City Council heard Ordinance 10, 2021 on first reading at the September 8, 2021, City Council meeting and voted to approve by a vote of 5 to 0.

#### **STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of Ordinance 10, 2021 as presented on second and final reading.



ORDINANCE 10, 2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA AMENDING CHAPTER 78 – LAND DEVELOPMENT REGULATIONS AT SECTION 78-191. OUTDOOR SEATING. TO REVISE OUTDOOR SEATING REGULATIONS, CREATE AN OUTDOOR SEATING PARKING RATE, AND PROVIDE CROSS REFERENCES; AMEND SECTION 78-345. NUMBER OF PARKING SPACES REQUIRED. TO REVISE RESTAURANT PARKING RATES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78 – LAND DEVELOPMENT SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**WHEREAS**, the Covid-19 global pandemic caused the City of Palm Beach Gardens and the State of Florida to shut down businesses and public gatherings to limit the spread of the virus; consequently, restaurants in the City were greatly impacted by the shutdown, and many struggled to stay in business; and

**WHEREAS**, the Governor later issued an Executive Order allowing restaurants to reopen for takeout and outdoor seating service only to allow for social distancing; and

**WHEREAS**, the City temporarily allowed expanded outdoor seating in restaurants to enact the Governor's Executive Order; and

**WHEREAS**, the City's temporary expansion program sunsets on September 30, 2021; and

**WHEREAS**, restaurant dining preferences have shifted to outdoor dining, and traffic patterns are favoring ride share and curbside pick-up of takeout orders; and

**WHEREAS**, City staff identified certain areas within the outdoor seating and parking codes that could be modernized; and

**WHEREAS**, this Ordinance was reviewed by the Planning, Zoning, and Appeals Board at a public hearing on August 10, 2021, and received a recommendation of approval by a vote of 7 to 0; and

**WHEREAS**, the City Council deems approval of this Ordinance to be in the best interests of the health, safety, and welfare of the residents and citizens of the City of Palm Beach Gardens and the public at large.



NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, that:

**SECTION 1.** Chapter 78 – Land Development of the Code of Ordinances of the City of Palm Beach Gardens, Florida, is hereby amended at Section 78-191. Outdoor seating, by repealing Section 78-191. and readopting same as amended; providing that Section 78-191. shall hereafter read as follows:

**Sec. 78-191. – Outdoor seating.**

For the purpose of this section, *serve* or *service* shall mean the act of a waiter, waitress, or employee of the food service establishment taking food or beverage orders and providing delivery of food or beverages to the patrons seated area.

- (a) *Applicability.* Outdoor seating shall be permitted as an accessory use to a restaurant, business, or institution serving food or beverages in an enclosed area, subject to the standards listed below.
  - (1) *Access.* The outdoor seating area is adjacent to, and has direct access through, a doorway to that portion of the business or institution which is enclosed.
  - (2) *Location.* The outdoor seating is located ~~directly~~ adjacent to the restaurant or food service establishment and is owned or leased for this purpose.
  - (3) *General circulation.* The outdoor seating can be accommodated without impeding the access of the general public to one (1) or more of the following:
    - a. The enclosed portion of the restaurant or food service establishment;
    - b. Any other use located within the same building or structure; or
    - c. Any unauthorized common elements shared by the restaurant or food service establishment and any other users of the same building or structure.
  - (4) *Safety.* Outdoor seating shall comply with all building, fire, and safety code requirements.
  - (5) *Parking.* Parking for areas utilized for outdoor seating, with or without service, shall be calculated and provided as ~~required in division 9 of article V, except for outdoor seating areas meeting the provisions of subsection a.,~~ outlined below. Outdoor seating shall not be established if required parking cannot be provided on site or if a nonconformity is created.
    - a. Outdoor seating areas, without service, which constitute no more than twenty-five (25) percent of the gross floor area of the restaurant, business, or institution serving food or beverages, shall be exempt from



the parking requirements set forth at division 9 of article V. Outdoor seating areas, without service, consisting of more than twenty-five (25) percent of the GFA shall provide parking for the entire outdoor seating area at a rate of 1 space per 250 SF GFA of the outdoor seating area.

b. Outdoor seating areas, with service, shall provide parking at a rate of 1 space per 250 SF GFA of the outdoor seating area.

c. Reduced parking may be requested for outdoor seating with the provision of alternatives that reduce the need for the parking spaces. Such alternatives may include providing additional ride-share drop-off / pick-up spaces, micro-mobility technology spaces, or similar technologies that may be developed in the future. A mobility study shall be provided for staff review to demonstrate the reduced parking need.

d. An indoor seating area may be restricted to be replaced by an outdoor seating area on a per-square-foot basis without increasing the required number of parking spaces as approved with the outdoor dining permit and indicated on the site plan.

(6) *Outdoor furniture.* Furniture that is designed as outdoor furniture, which can withstand the elements, rain and intense sun, shall be used.

(b) *Review.* Outdoor seating may be included as an element of an overall application for development order approval or as an amendment to an existing development order through an Outdoor Dining Permit application. Any outdoor bars that are visible from any public right-of-way must receive approval from city council. In addition to any other requirements contained herein, each application for approval of outdoor seating shall include the information listed below.

(1) *Site plan.* A site plan, at a scale acceptable to the city, illustrates how the outdoor seating may be reasonably accommodated and which indicates the following:

- a. The building for which the outdoor seating is proposed;
- b. The location of the restaurant or food service establishment;
- c. The proposed location of the outdoor seating, including number of tables and chairs, any fencing, screening, or materials to separate the seating area;
- d. The location of any sidewalks or other pedestrian walkways or passageways adjacent to or affected by the proposed outdoor seating, and the location of all existing or additional parking to be provided for the seating; and
- e. If applicable, a copy of a valid and current state alcoholic beverage license to serve alcohol where the proposed outdoor seating will be, or any other license or permit required by the city for operation.
- f. The location of any indoor seating area that is being restricted and replaced by an outdoor seating area.



- (2) *Consent.* A copy of the written consent of the individual, corporation, or other entity that owns the property upon which the outdoor seating will be located.
  - (3) *Indemnification.* The applicant shall provide, in a form acceptable to the city attorney, indemnification of the city for any liability for personal injury and property damage due to the approval or existence of the outdoor seating.
  - (4) *Renderings.* Photographs, renderings, elevations, samples, and other materials as may be required by the city which illustrate the following: the style and color of all furnishings and menu boards, and the color, style, and materials used for storage, fencing, screening, or otherwise separating the outdoor seating.
  - (5) *Alcohol.* Alcoholic beverages may be consumed in the outdoor seating area provided the primary operation is licensed to serve alcoholic beverages in accordance with chapter 6, alcoholic beverages.
- (c) *Minimum standards.* Outdoor seating shall, at a minimum, comply with the standards listed below.
- (1) *Walkways.* Outdoor seating shall be arranged, when in use, in a manner that provides pedestrian accessibility, maintains compliance with the Americans with Disabilities Act (ADA), and meets all building codes.
  - (2) *Multiple tenants.* Outdoor seating located on a pedestrian walkway which provides access to more than one (1) occupant of a building shall provide an unobstructed passageway of at least six (6) feet in width. The unobstructed passageway shall be located adjacent to, but not through, the outdoor seating area.
  - (3) *Location.* Outdoor seating shall be located only ~~along the frontage of~~ adjacent to the affected restaurant or food service establishment, and shall not be located in front of or adjacent to any other user or tenant, unless otherwise ~~previously~~ approved by the growth management director.
  - (4) *Prohibited location.* Outdoor seating shall not be located within any area designated for parking.



- 1 (5) *Fencing or screening.* Fencing or screening may be required as a means to  
 2 physically separate such use from any adjacent public passageway, street,  
 3 or community as a means for public safety and to avoid nuisance. When  
 4 outdoor seating is proposed adjacent to parking spaces or drive aisles,  
 5 safety elements such as bollards or reinforced planters shall be utilized to  
 6 prevent vehicle intrusion. In areas located within a courtyard or  
 7 developments that are designed to accommodate the outdoor seating in a  
 8 safe manner, fencing or screening may not be necessary.  
 9
- 10 (6) *Compatibility.* Outdoor seating, including fencing and screening materials,  
 11 shall be compatible in color and style with the exterior of the building. Signs,  
 12 lettering, or advertising, excluding permitted menu board, shall not be  
 13 attached to outdoor seating. Small labels may be permanently attached to  
 14 the furnishing to identify ownership for security purposes.  
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- 16 (7) *Storage.* Outdoor seating and furnishings shall be stored in a secure  
 17 manner when not in use. If seating and furnishings are stored outside, solid  
 18 colored tarps shall be used to cover. Heaters and other seasonal equipment  
 19 shall not be visible from the public right-of-way when not in use.  
 20
- 21 (8) *Hours of operation.* Excluding outdoor seating located in inner courtyards,  
 22 outdoor seating, with or without service, shall comply with the hours of  
 23 operation noted below.  
 24
- 25 a. *Sunday through Wednesday.* All sales and service of food and  
 26 beverages are prohibited between the hours of 10:30 p.m. and 7:00 a.m.  
 27 b. *Thursday through Saturday.* All sales and service of food and beverages  
 28 are prohibited between the hours of 11:30 p.m. and 7:00 a.m.  
 29
- 30 (9) *Dog-Friendly Dining.* Restaurants may allow patrons' dogs within outdoor  
 31 seating areas with a dog-friendly dining permit pursuant to Chapter 14 –  
 32 Animals, Article III. – Dog-Friendly Dining of the City's Code of Ordinances.  
 33
- 34 (10) *Live Entertainment.* Live entertainment in outdoor seating areas may be  
 35 allowed with a live entertainment permit pursuant to Section 78-194. Live  
 36 entertainment permit. of the City's Code of Ordinances.  
 37
- 38 (d) *Exemptions.* The following are exempt from formal review of outdoor seating but  
 39 shall comply with section 78-191(a), applicability:  
 40
- 41 (1) *Casual seating without service.* Businesses, institutions, or uses that serve  
 42 food or beverages solely inside may have outdoor casual seating, such as  
 43 a bench or tables and chairs, and shall meet all accessibility standards.  
 44  
 45  
 46



- (2) *De minimus standard.* Businesses, institutions, or uses that serve food or beverages may be approved to serve food for outdoor seating by a maximum of ~~two~~three (23) tables (~~eight~~twelve (812) seats) or no more than ~~one~~two hundred (100200) square feet, whichever is less, provided they meet all accessibility standards.

**SECTION 2.** Chapter 78 – Land Development of the Code of Ordinances of the City of Palm Beach Gardens, Florida, is hereby amended at Section 78-345. - Number of parking spaces required, Table 33: Required Off-Street Parking Spaces by repealing Table 33 and readopting same as amended; providing that Table 33 shall hereafter read as follows:

Table 33: Required Off-Street Parking Spaces

Use/Category	Spaces Required	Notes
RESIDENTIAL		
Omitted for Brevity		
RETAIL & COMMERCIAL		
Omitted for Brevity		
Recreational Vehicle Park	1 space per RV parking space 1 space per camping cabin 1 space per 500 square feet of administrative, maintenance, or commercial space 2 spaces per security dwelling	
Restaurant, General	1 space per 150 gross square feet <del>including</del> <del>outdoor seating</del> , plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Fast Food (with or w/o Drive-through)	1 space per 150 gross square feet <del>including</del> <del>outdoor seating</del> plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Specialty	1 space per 150 gross square feet <del>including</del> <del>outdoor seating</del> , plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Restaurant, Quality	1 space per 150 gross square feet <del>including</del> <del>outdoor seating</del> , plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.



Restaurant, Take Out	1 space per 150 gross square feet <del>including outdoor seating</del> , plus 1 space per 250 square feet for employee parking	Parking study can be requested by city or provided by applicant to demonstrate overall parking demand.
Retail, General	1 space per 250 square feet	
Omitted for Brevity		
PERSONAL SERVICES		
Omitted for Brevity		
OFFICE		
Omitted for Brevity		
PUBLIC AND INSTITUTIONAL		
Omitted for Brevity		
CULTURAL, ENTERTAINMENT, AND RECREATIONAL		
Omitted for Brevity		
WHOLESALE		
Omitted for Brevity		
INDUSTRIAL AND MANUFACTURING		
Omitted for Brevity		
TRANSPORT, UTILITIES, & COMMUNICATIONS		
Omitted for Brevity		
RESOURCES PRODUCTION AND EXTRACTION		
Omitted for Brevity		
OTHER		
Omitted for Brevity		

**SECTION 3.** All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

**SECTION 4.** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 5.** Specific authority is hereby granted to codify this Ordinance.

**SECTION 6.** This Ordinance shall become effective immediately upon adoption.

(The remainder of this page intentionally left blank.)



PASSED this 8<sup>th</sup> day of September, 2021 upon first reading.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon second and final reading.

CITY OF PALM BEACH GARDENS	FOR	AGAINST	ABSENT
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BY: _____	_____	_____	_____
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Rachelle A. Litt, Mayor			
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_____	_____	_____	_____
Chelsea Reed, Vice Mayor			

_____	_____	_____	_____
Carl W. Woods, Councilmember			

_____	_____	_____	_____
Mark T. Marciano, Councilmember			

_____	_____	_____	_____
Marcie Tinsley, Councilmember			

ATTEST:

BY: \_\_\_\_\_

Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY: \_\_\_\_\_

R. Max Lohman, City Attorney







August 3, 2021

Ms. Natalie Crowley, AICP  
Director of Planning and Zoning  
City of Palm Beach Gardens  
10500 N. Military Trail  
Palm Beach Gardens, FL 33410

RE: Support for City of Palm Beach Gardens Outdoor Seating Land Development Regulations Amendments

Dear Ms. Crowley:

The PGA Corridor Association strives to be a catalyst for a vibrant and sustainable Palm Beach Gardens. Our mission is to preserve, enhance, and promote the PGA Corridor as the premier business location in Palm Beach County. The PGA Corridor Association recognizes that the City's proposed Outdoor Seating regulation amendments will provide flexibility for restaurant owners regarding the placement and design of outdoor seating areas as well as streamlining the application and review process.

The proposed amendments recognize evolving restaurant dining preferences as well as changing travel patterns. These evolving preferences were realized following the challenges arising from the COVID-19 pandemic to balance public safety with economic sustainability. The PGA Corridor Association appreciates the opportunity to participate and provide meaningful input during the development of these amendments.

The PGA Corridor Association commends and strongly supports the City of Palm Beach Gardens in modernizing and updating the Land Development Regulations

Sincerely,

A handwritten signature in blue ink, which appears to read "Dana Middleton".

Dana Middleton  
Chairman, PGA Corridor Association





August 4, 2021

Ms. Natalie Crowley, AICP  
Director of Planning and Zoning  
City of Palm Beach Gardens  
10500 N. Military Trail  
Palm Beach Gardens, FL 33410

RE: Support for City of Palm Beach Gardens Outdoor Seating Land Development  
Regulations Amendments

Dear Ms. Crowley:

The Palm Beach North Chamber of Commerce strives to be a dynamic organization that serves as a vital business and community resource. One of the many focuses of the Chamber is the development and retention of businesses and protecting and improving the quality of life for residents and business owners. The Chamber recognizes that the City's proposed Outdoor Seating regulation amendments will provide flexibility for restaurant owners regarding the placement and design of outdoor seating areas as well as streamlining the application and review process.

The proposed amendments recognize evolving restaurant dining preferences as well as changing travel patterns. These evolving preferences were realized following the challenges arising from the COVID-19 pandemic to balance public safety with economic sustainability. The Palm Beach North Chamber appreciates the opportunity to participate and provide meaningful input during the development of these amendments.

The Palm Beach North Chamber commends and strongly supports the City of Palm Beach Gardens in modernizing and updating the Land Development Regulations.

Sincerely,

Noel Martinez  
President & CEO