

## ORDINANCE NO. 4149

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CITY CODE OF ORDINANCES CHAPTER 31, ZONING, ARTICLE I, IN GENERAL, SECTION 31-1, DEFINITIONS, BY ADDING A DEFINITION FOR “DRIVE-UP, DRIVE-THROUGH FACILITY”; A DEFINITION FOR “RESTAURANT (EXCLUDING DRIVE-THROUGH)””; AND A DEFINITION FOR “RESTAURANT, DRIVE-THROUGH, DRIVE-IN””; AND AMENDING CHAPTER 31, ZONING, ARTICLE VI, SUPPLEMENTAL DISTRICT REGULATIONS, SECTION 31-551, PRINCIPAL ARTERIAL DESIGN STANDARDS OVERLAY, BY AMENDING THE LOCATION CRITERIA FOR DEVELOPMENTS WITH DRIVE-UP FACILITIES BY DELETING THE EXISTING 500 FOOT SEPARATION REQUIREMENT AND REQUIRING SPECIAL EXCEPTION APPROVAL FOR DRIVE-UP FACILITIES; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City’s Principal Arterial Design Standards Overlay regulations, provided within City Code Section 31-551, currently prohibit drive-up facilities, including drive-through restaurants to be located within 500 feet of an existing drive-up facility on the same side of a designated arterial roadway; and

**WHEREAS**, the Principal Arterial Design Standards Overlay is associated with properties fronting the following roadways, 1) Dr. Martin Luther King Jr. Boulevard, 2) President Barack Obama Highway, 3) Blue Heron Boulevard, 4) Broadway (U.S. Hwy. No. 1), 5) 13<sup>th</sup> Street, 6) Military Trail, 7) Congress Avenue, and 8) Australian Avenue; and

**WHEREAS**, the applicant, Riviera Partners, LLC, owns a vacant parcel of land on the north side of West Blue Heron Boulevard which is located within said overlay; and

**WHEREAS**, the applicant, has requested that the existing 500 foot separation requirement be removed from the overlay requirements as currently provided within Sec. 31-551; and

**WHEREAS**, if the applicant initiated text amendment is approved, it would allow this owner, and other property owners located within the overlay area to submit Site Plan and Special Exception application to the City for development uses having a drive-through, including, but not limited to a drive-through restaurant use, no matter the sites proximity to existing drive-through uses, so long as the use requested is permitted by the underlying zoning district; and

**WHEREAS**, City staff has reviewed the City’s Code of Ordinances and Land Development Regulations, and has developed proposed amendments associated with definitions, location and approval process for drive-up facilities; and

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**WHEREAS**, the Planning and Zoning Board reviewed the proposed text amendment request to City Code Section 31-1 and 31-551 on February 13, 2020 and recommended approval to the City Council; and

**WHEREAS**, the City Council of the City of Riviera Beach finds that the proposed zoning text amendment (ZA-19-02) is consistent with the City's Comprehensive Plan and promotes the health, safety, and welfare of the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The foregoing 'WHEREAS' clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** Chapter 31 of the Code of Ordinances of the City of Riviera Beach, entitled "Zoning", Article I, entitled "In General", Article VI, entitled "Supplemental District Regulations" is amended to read as follows (additions are underlined and deletions appear in ~~strike through~~ format):

**ARTICLE I. – IN GENERAL**

**Sec. 31-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Drive-up, drive-through facility means any place of business or premises which serves, sells, or otherwise makes available its goods or services directly to customers situated in motor vehicles.*

\* \* \*

*Restaurant (excluding drive-through) means an establishment where the principal business is the sale of food in a ready-to-consume state to persons who are seated within the principal building, seated outside on the premises, or for carryout.*

Restaurant, drive-through, drive-in, means an establishment where the principal business is the sale of food in a ready-to-consume state to customers within the establishment and directly to customers on premises situated in motor vehicles.

\* \* \*

**ARTICLE VI. – SUPPLEMENTAL DISTRICT REGULATIONS**

**Sec. 31-551. - Principal arterial design standards overlay.**

\* \* \*

(h) *Location criteria for developments with drive-up facilities.*

(1) ~~No drive-up facilities may be located within 500 feet of an existing facility located on the same side of a designated arterial. Such distance shall be measured from the point of ingress or egress of an existing site to the point of ingress or egress of the proposed site~~ along a principal arterial roadway unless approved in accordance with Special Exception Section 31-61 of the city's code, and only in those zoning districts which currently permit drive-up facilities by right, or special exception.

~~(2) Existing drive-up facilities located closer than 500 feet may be improved or upgraded provided that are able to meet the other requirements of this section.~~

\* \* \*

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5.** Specific authority is hereby granted to codify the Ordinance as it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and sections of this Ordinance may be renumbered to accomplish such intentions.

**SECTION 7.** This Ordinance shall take effect immediately upon final passage and adoption.

**PASSED AND APPROVED** on the first reading this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

**PASSED AND ADOPTED** on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

**APPROVED:**

\_\_\_\_\_  
**RONNIE L. FELDER  
MAYOR**

\_\_\_\_\_  
**JULIA A. BOTEL, Ed.D  
CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**CLAUDENE L. ANTHONY,  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK**

\_\_\_\_\_  
**DOUGLAS A. LAWSON  
CHAIR PRO TEM**

\_\_\_\_\_  
**TRADRICK MCCOY  
COUNCILPERSON**

\_\_\_\_\_  
**SHIRLEY D. LANIER  
COUNCILPERSON**

\_\_\_\_\_  
**KASHAMBA MILLER-ANDERSON  
COUNCILPERSON**

**REVIEWED AS TO LEGAL SUFFICIENCY**

\_\_\_\_\_  
**DAWN S. WYNN, CITY ATTORNEY**

**DATE:** \_\_\_\_\_

**1<sup>ST</sup> READING**

**MOTIONED BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**T. MCCOY** \_\_\_\_\_

**K. MILLER-ANDERSON** \_\_\_\_\_

**S. LANIER** \_\_\_\_\_

**J. BOTEL** \_\_\_\_\_

**D. LAWSON** \_\_\_\_\_

**2<sup>ND</sup> & FINAL READING**

**MOTIONED BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**T. MCCOY** \_\_\_\_\_

**K. MILLER-ANDERSON** \_\_\_\_\_

**S. LANIER** \_\_\_\_\_

**J. BOTEL** \_\_\_\_\_

**D. LAWSON** \_\_\_\_\_

**REVIEWED AS TO LEGAL SUFFICIENCY**

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**DAWN S. WYNN, CITY ATTORNEY**

**DATE:** \_\_\_\_\_