

1 Introduced by Council Members Bowman, Boylan, Diamond, Ferraro,
2 Freeman, Gaffney and White:

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5 **ORDINANCE 2021-175**

6 AN ORDINANCE REGARDING CHAPTER 656 (ZONING
7 CODE), *ORDINANCE CODE*; CREATING A NEW SECTION
8 656.720 (NONCONFORMING USE ADMINISTRATIVE
9 DEVIATION), PART 7 (NONCONFORMING LOTS, USES AND
10 STRUCTURES), CHAPTER 656 (ZONING CODE),
11 *ORDINANCE CODE*, TO PROVIDE FOR ADMINISTRATIVE
12 DEVIATIONS FOR CERTAIN NONCONFORMING USES;
13 PROVIDING AN EFFECTIVE DATE.

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15 **WHEREAS**, certain nonconforming uses serve the public interest
16 by providing services that are not readily available, or serving a
17 cultural, historic, or artistic purpose in a neighborhood; and

18 **WHEREAS**, rezoning these properties could lead to spot zoning
19 and result in greater impacts to a neighborhood than the impacts from
20 such nonconforming uses; and

21 **WHEREAS**, providing a process to review and permit such
22 nonconforming uses to continue serves a public purpose while also
23 protecting surrounding properties by limiting such nonconforming uses
24 through the administrative deviation process, as described herein;
25 now, therefore

26 **BE IT ORDAINED** by the Council of the City of Jacksonville:

27 **Section 1. Creating a new Section 656.720 (Nonconforming**
28 **Use Administrative Deviation), Part 7 (Nonconforming Lots, Uses and**
29 **Structures), Chapter 656 (Zoning Code), Ordinance Code. Part 7**
30 **(Nonconforming Lots, Uses and Structures), Chapter 656 (Zoning Code),**
31 **Ordinance Code, is hereby amended to create a new Section 656.720**

1 (Nonconforming Use Administrative Deviation) as follows:

2 **Chapter 656 - ZONING CODE**

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4 **PART 7. - NONCONFORMING LOTS, USES AND STRUCTURES**

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6 **Sec. 656.720. - Nonconforming Use Administrative Deviation.**

7 (a) The Zoning Administrator, or if absent, as designated by
8 the Director, is authorized to grant nonconforming use administrative
9 deviations in areas outside of the Downtown Overlay Zone as defined
10 in Section 55.105, pursuant to this Section, notwithstanding any
11 other provision of this Chapter. The procedures for administrative
12 deviations in Part 1 of this Chapter shall apply to nonconforming use
13 administrative deviations pursuant to this Section, except as
14 modified by this Section.

15 (b) The property and use shall meet the following application
16 requirements:

17 (1) The property shall be less than one acre.

18 (2) Development on the property shall not exceed the
19 impervious surface limits in this Chapter for the Zoning District
20 with similar uses. An applicant may propose modifications to the
21 property in the application to meet this requirement.

22 (3) The property shall have been used for the
23 nonconforming use at some point prior to April 25, 1991.

24 (4) The nonconforming use requested shall be the same
25 nonconforming use that existed at some point prior to April 25, 1991.

26 (5) The nonconforming use shall not be an industrial use
27 or any use for the sale or service of alcoholic beverages, including
28 liquor, beer or wine.

29 (6) The nonconforming use shall be an authorized use in
30 the property's current future land use category pursuant to the
31 comprehensive plan.

1 (c) In order to authorize a nonconforming use administrative
2 deviation, the Zoning Administrator shall first determine whether the
3 application meets the application requirements in subsection (b).
4 The Zoning Administrator shall not grant a nonconforming use
5 administrative deviation unless the Zoning Administrator makes a
6 positive finding, based on the substantial competent evidence, on
7 each of the following criteria. The Zoning Administrator may impose
8 conditions or restrictions to mitigate impacts of the nonconforming
9 use.

10 (1) The request is not based exclusively upon a desire to
11 reduce the cost of developing the site, but would accomplish some
12 result that is in the public interest, such as, for example, providing
13 services that are not readily available (food desert, medical
14 services, social services), or serving a cultural, historic, or
15 artistic purpose in the neighborhood.

16 (2) The nonconforming use will not substantially diminish
17 property values in, nor alter the essential character of, the area
18 surrounding the site and will not substantially interfere with or
19 injure the rights of others whose property would be affected by the
20 deviation.

21 (3) The nonconforming use will not be detrimental to the
22 public health, safety or welfare, result in additional public expense,
23 the creation of nuisances, or conflict with any other applicable law.

24 (4) The nonconforming use can be made personal to the
25 applicant (non-transferable).

26 **Secs. 656.7201–656.724. - Reserved.**

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28 **Section 2. Effective Date.** This Ordinance shall become
29 effective upon signature by the Mayor or upon becoming effective
30 without the Mayor's signature.

1 Form Approved:

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3 /s/ Shannon K. Eller

4 Office of General Counsel

5 Legislation Prepared By: Shannon K. Eller

6 GC-#1422100-v1-Nonconforming_Uses_Legislation