

ORDINANCE NO. 02-2021

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA AMENDING APPENDIX A-ZONING CODE, ARTICLE I. GENERAL PROVISIONS, BY AMENDING SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION IN ORDER TO AMEND THE DEFINITION OF *FLOOR AREA*; BY AMENDING SECTION 3. AUTHORITY. TO REPEAL SAID SECTION IN ITS ENTIRETY AND BY ADOPTING A NEW SECTION 3. AUTHORITY. IN ORDER TO REFORMAT SAID SECTION; BY FURTHER AMENDING SECTION 3 TO PROVIDE THAT THE BUILDING AND ZONING COMMITTEE IS AUTHORIZED TO PERFORM AN IMPACT REVIEW ANALYSIS; PROVIDING FOR PURPOSE, APPLICABILITY, PROCEDURES, STANDARDS FOR REVIEW, DECISIONS AND APPEALS FOR IMPACT REVIEW ANALYSIS; BY REVISING THE NOTICE PROVISIONS TO NEIGHBORING PROPERTIES FOR PROPERTIES SEEKING DEVELOPMENT APPROVAL; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA, AS FOLLOWS:

SECTION 1. Appendix A-Zoning Code, Article I. General Provisions, Section 1. Definitions and Rules of Construction of the Code of Ordinances of the Town of Jupiter Inlet Colony is hereby amended to revised the definition of *Floor area* to read as follows:

Floor area. The sum of all areas on all floors of all buildings including the areas lying within the building perimeter established by the interior side of the exterior wall of all floors of the building, ~~including garages, covered patios, open air exterior areas that are under roof, and balconies that project beyond the exterior walls of the building.~~ For the purpose of Section 10.1(F) of the Zoning Code, floor area shall mean all space within the building perimeter established by the exterior side of the exterior wall of all floors of the building, including garages, covered patios, open air exterior areas that are under roof, interior second floor areas that are open to below, and balconies that project beyond the exterior walls of the building.

SECTION 2. Appendix A-Zoning Code, Article I. General Provisions, Section 3. Authority of the Code of Ordinances of the Town of Jupiter Inlet Colony, Florida is hereby amended by deleting the current Section 3 in its entirety and by adopting a new Section 3. Authority which shall read as follows:

Section 3. - Authority.

(A) Planning and Zoning Administrator

1. The Planning and Zoning Administrator shall be charged with the administration and enforcement of the provisions of this Zoning Code as agent of and acting under the direction of the Town Commission.
2. The Planning and Zoning Administrator shall review building plans that have an impact on zoning issues such as setbacks, building height or elevation, building mass, sight lines, grade or lot coverage. Except for applications for building permits for work specified in a Town policy and procedure memorandum as not requiring zoning review, no building permit shall be issued until the Planning and Zoning Administrator has approved plans submitted for compliance with the Zoning Code. Applications for building permits for work that is specified in a Town policy and procedure memorandum as not requiring zoning review and that have no effect or impact on zoning issues such as setbacks, building height or elevation, building mass, sight lines, grade or lot coverage need only be reviewed by the Building Official. The signature of the Planning and Zoning Administrator on the application for permit shall be authorization for issuance of the permit by the Building Official, provided that if the applicant fails to obtain a building permit within six (6) months of approval by the Planning and Zoning Administrator then said approval shall be void and the application process must be recommenced.
3. The Planning and Zoning Administrator may, upon awareness of evidence of a Zoning Code violation during construction, issue a stop-work order to suspend any building permit temporarily until the reason for

suspension has been eliminated or corrected or until an appeal is reviewed by the Town Commission.

4. Any decision of the Planning and Zoning Administrator may be appealed, as of right, to the Town Commission unless a variance is involved. In which case, the applicable procedure for requesting a variance is to be followed.

(B) *Building and Zoning Committee.* The Town Commission shall appoint Building and Zoning Committee members. Such Committee shall consist of no less than three (3) and no more than seven (7) members. The Committee shall select a chairperson to preside at its meetings. The responsibilities of the Committee shall be to 1) assist the Planning and Zoning Administrator in the interpretation of zoning code regulations, 2) consider, review and recommend potential zoning code amendments, 3) perform an impact review analysis, when applicable; 4) review plans for new construction; exterior renovations, additions and remodels; and significant renovations deemed necessary by the Planning and Zoning Administrator, 5) provide recommendations for action on variance applications, as required by the Planning and Zoning Administrator, and 6) grant, if appropriate, setback waivers for swimming pools and screen enclosures as provided in section 17(F)(8) of the Zoning Code.

(C) *Impact Review Analysis.*

1. *Purpose.* The purpose of the impact review analysis process is to ensure that proposed development is designed, located, configured, landscaped and developed to avoid negative impacts on neighboring properties or the Town as a whole. In the instances where impact review is applicable, the standards of this Section shall be interpreted to operate in concert with the other provisions of the land development regulations in order to achieve the purposes of the Zoning Code. Consequently, if a proposed building or buildings cannot be designed, located, configured,

landscaped and developed in a manner that satisfies the standards of this Section, then an Applicant:

- a. May not be entitled to develop all of the floor area and/or building height that are otherwise permitted by the other provisions of these land development regulations; and
- b. May not be entitled to provide only the minimum yards that are otherwise required by the underlying zoning district regulations.

2. Applicability. Impact review is required if:

- a. The total floor area on the lot proposed for development, including existing and proposed floor area, will be greater than eighty (80%) percent of the maximum floor area permitted in the underlying zoning district; or
- b. A proposed addition or renovation to an existing structure adds a second- story or if more than 1000 square feet of floor area is added to an existing structure.

3. Procedures; Standards for Review. In performing its impact review analysis, the Building and Zoning Committee shall approve an application if the Applicant demonstrates that:

- a. The proposed development will not adversely affect the public interest; and
- b. The mass, scale and height of the proposed development is consistent with the surrounding properties and neighborhood character; and
- c. The proposed development will not adversely affect adjoining properties; and
- d. For development on waterfront properties, the proposed development is sensitive to and preserves views from adjoining properties as much as is practicable.

4. Decisions; Appeals. In performing an impact review analysis, the Building and Zoning Committee shall either approve, approve with conditions or deny an application for development approval. In the event the Building and Zoning Committees finds that an application meets the requirements of this Section, then the application shall be approved. In the event the Building and Zoning Committee

approves the application with conditions or denies the application, the Applicant may either amend its development application in compliance with the decision of the Building and Zoning Committee or may appeal the decision to the Town Commission. Any such appeal shall be made within thirty (30) days of a decision by the Building and Zoning Committee. In addition to the Applicant, only the owners of properties identified in Paragraph E may appeal an impact review decision to the Town Commission.

(D) *Town Commission.* The Town Commission shall serve as the appellate board of the Town:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official or the Building and Zoning Committee in the enforcement of this Chapter [Appendix A-Zoning Code].

2. To authorize upon application in specific cases a variance from the terms of this Chapter [Appendix A-Zoning Code] as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Chapter [Appendix A-Zoning Code] will result in unnecessary hardship. However, the Town Commission shall not be empowered or authorized to grant a variance to permit a use in a zone or district in which use is not permitted by this Chapter [Appendix A-Zoning Code].

(3) In exercising the above-mentioned powers, the Town Commission may, in conformity with the provisions of this Chapter [Appendix A-Zoning Code], reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer or Committee from whom the appeal is taken. The concurring vote of three (3) Commissioners shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or the Building and Zoning Committee or to decide in favor of the applicant on any variance under this Chapter [Appendix A- Zoning Code].

(E) The Town Clerk shall provide notice by regular mail to owners of property directly abutting a property for which a building or development permit application has been filed and review is required by the Building and Zoning Committee as well as to owners of properties located across the street from and within fifty (50') feet of any portion of the property seeking development approval. Said notice shall be mailed to owner(s) as shown on the records of the Property Appraiser of Palm Beach County, Florida no less than five (5) days prior to the meeting of the Building and Zoning Committee. The failure of the Town Clerk to provide the notice as specified herein or the failure of an owner(s) to receive such notice shall in no way invalidate or otherwise affect any action either taken or the issuance of any building permit(s).

SECTION 3. Specific authority is hereby granted to codify and incorporate this Ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony, Florida.

SECTION 4. That all Ordinances or parts or Ordinances, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 5. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

(INTENTIONALLY LEFT BLANK)

SECTION 6. This Ordinance shall become effective immediately upon its passage and adoption.

FIRST READING this 12 day of April , 2021.

SECOND READING and FINAL PASSAGE this 10 day of May, 2021.

TOWN OF JUPITER INLET COLONY,
FLORIDA

Mayor-Daniel J. Comerford, III

Vice-Mayor Milton J. Block

Commissioner Lisa H. Hines

ATTEST:

Commissioner Cynthia Keim

Town Clerk Jude M. Goudreau

Commissioner Richard D. Busto