

BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE No. 2317-2016

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING SECTION 2.02.03 "TABLE 3 - BUSINESS AND PUD (PLANNED UNIT DEVELOPMENT) DISTRICTS USES", AMENDING SECTION 2.04.06.B "ROOFTOP OCCUPANCY", AMENDING SECTION 2.06.00 "SUPPLEMENTAL USE STANDARDS", AMENDING SECTION 3.01.03.F.2.b "URBAN DISTRICT USES", AMENDING SECTION 3.01.04.S "ROOF TOP OCCUPANCY", AMENDING SECTION 3.02.05.A "BUSINESS AND MIXED-USE SUB-DISTRICT (BMU)", AMENDING SECTION 3.02.06.M "ROOFTOP OCCUPANCY", AND AMENDING CHAPTER 12 "DEFINITIONS", IN THE STUART LAND DEVELOPMENT CODE TO PROVIDE FOR THE ALLOWANCE OF ROOFTOP DINING; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City does not currently allow or regulate rooftop dining, and

WHEREAS, amendments are proposed to the Stuart Land Development Code to provide certain regulations for rooftop dining areas; and

WHEREAS, permitting rooftop dining has the potential to increase economic opportunities in the City by providing for a unique dining experience, and by increasing the capacity of new and existing restaurant businesses; and

WHEREAS, the Stuart Local Planning Agency has held a duly advertised public hearing to consider an ordinance to allow rooftop dining under certain conditions; and

WHEREAS, to protect the Public's health, safety and welfare the Stuart City Commission desires to adopt regulations pertaining to rooftop dining.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: Pertinent sections of the Stuart Land Development Code are hereby amended as follows:

Sec. 2.02.03. TABLE 3

Business¹ and PUD Districts Uses	B-1	B-2	B-3	B-4	CPUD⁴	MXPUD⁵
Adult businesses		CU			A	A
Animal Hospital		P			A	A
Any retail business or retail service establishment, including shops for making articles of an artisanal use to be sold on the premises, provided such manufacturing is incidental to the retail business or service	P	P			A	A
Art galleries	P	P			A	A
Auto sales provided all repair and service shall be done within an enclosed building		P			A	A
Bakeries		P		P	A	A
Banks	P	P		P	A	A
Barber	P	P			A	A
Bars	P	P			A	A
Beauty shops	P	P			A	A
Beer garden	P	P			A	A
Boat building					A	
Bowling alleys		P			A	A
Bus terminals		P			A	A
Business	P	P		P	A	A
Business warehouse facilities in conjunction with adjacent commercial and retail uses				P		A
Cabinet shops		P			A	A
Cemeteries		P			A	A
Child care center ²	P	P	P	CU	A	A
Clinics		P			A	A
Clubs (membership), lodges, and fraternal organizations		P			A	A
Cocktail lounge	P	P			A	A
Concrete or asphalt processing plants						
Day care center ²	P	P	P		A	A
Drive -in restaurants	P	P			A	A
Drive-in theaters	P	P			A	A
Enclosed garages and repair shops for motor vehicles		P		P	A	A
Enclosed repair shops for repairing furniture, or appliances powered by gas, oil, electricity, etc., without outdoor storage		P		P	A	A
Enclosed sales of farm and heavy equipment		P		P	A	A

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Business¹ and PUD Districts Uses	B-1	B-2	B-3	B-4	CPUD⁴	MXPUD⁵
without outdoor storage						
Enclosed sales of seeds, insecticide, and growers supplies without outdoor storage		P		P	A	A
Enclosed sign painting and/or sign manufacturing shops without outdoor storage		P		P	A	A
Enclosed storage and sales of lumber and building materials		P		P	A	A
Funeral homes		P			A	A
Gasoline or other motor fuel stations		P			A	A
Health spas		P			A	A
Heavy industrial manufacturing operations which are determined to be harmful to health, safety or welfare based on substantial noise, smoke, dust, cold, radiation emissions, glare, night illumination, vibrations, smell, risk of spills, fires, explosions, or other physical hazards						
Hotels	P	P			A	A
Kennels		P			A	A
Kindergarten ²	P	P	P		A	A
Laundries and dry cleaning establishments using non-combustible solvents		P		P	A	A
Limited indoor industrial uses, including fabrication, processing, converting, altering, assembling, dismantling, cleaning, servicing, freezing, treatment, distribution, repair, finishing, testing, or other handling of components, devices, equipment, and products				P		A
Limited restaurants intended to serve businesses in the local vicinity with a maximum seating capacity of not more than 30				P		A
Major auto repair						
Marinas including the sale, display, and storage of new and used boats for sale, and the repair and maintenance of boats.	P	P			A	A
Mini-warehouses for the storage of residential items				P		A
Mortuaries		P			A	A
Motels	P	P			A	A
Motion picture houses	P	P			A	A
Multi-family residences	P					A
Nursery school ²	P	P	P		A	A
Operation of a residence as a family day care	P	P			A	A

Business¹ and PUD Districts Uses	B-1	B-2	B-3	B-4	CPUD⁴	MXPUD⁵
home ²						
Outdoor storage which exceeds ten percent of the facility's indoor floor area						
Parking garages	P	P			A	A
Parking lots	P	P			A	A
Parks ³				P	A	A
Preschool learning center ²	P	P	P		A	A
Printing shops				P		A
Professional offices	P	P	P	P	A	A
Pub	P	P			A	A
Public buildings	P	P			A	A
Public facilities ³				P	A	A
Public utilities ³				P	A	A
Radio and/or television broadcast stations		P		P	A	A
Recreational facilities		P		P	A	A
Research facilities				P		A
Residential units combined with non-residential uses	P	P	P		A	A
Restaurants	P	P			A	A
Retail warehouse sales and service for non-intensive uses				P		A
Rolling rinks		P			A	A
<u>Rooftop dining areas (refer to supplemental standards in Section 2.06.19)</u>	CU	CU			CU	CU
School-private, parochial, technical, etc.	P	P			A	A
Slaughter houses						
Stealth telecommunications facilities in excess of 45 feet in height	CU	CU		CU	A	A
Stealth telecommunications facilities which do not exceed 45 feet in height or which are constructed as part of an existing architectural feature or structure provided its total height does not exceed 120 percent of the height of the architectural feature or structure	P	P		P	A	A
Telecommunications towers		CU		CU	A	A
Theatres	P	P			A	A
Tourist homes	P	P			A	A
Uses which require the issuance of occupational licenses for businesses operating from mini-warehouse facilities						
Veterinarians		P			A	A
Wholesale or commercial bakery warehouses		P		P	A	A
Wrecking or salvage yards						

Footnotes:

P - Use Permitted By Right

CU - Use Permitted as a Conditional Use by approval of a Major Conditional Use approval through public hearing process

A- Allowed through city commission public hearing process

- Prohibited

1 - B-1, B-2 and B-3 are business districts; B-4 is limited business and manufacturing district.

2 - Must be registered or licensed with the Florida Department of Children & Family Services.

3 - Public parks, public utilities, and public facilities are allowed in all zoning districts.

4 - Any and all commercial uses set forth in B-1, B-2 and B-3 are allowed providing the parcel abuts comparable zoning on at least two sides. The requirement that the parcel abut property with comparable zoning on at least two sides may be waived by the city commission after public hearing and due consideration by the commission. The requirement shall not be waived unless the commission makes specific findings that the proposed project is consistent with the purpose and intent of this chapter; that it promotes the welfare of the people of the City of Stuart; and that the project is otherwise of suitable character and compatible with its surroundings.

5 - Refer also to Table 4 for other uses allowed in MXPUD.

Sec. 2.04.06. Supplemental building height, maximum number of stories and minimum living area requirements.

B. Roof top ~~occupancy~~ occupancy.

1. ~~Occupancy~~ Occupancy Residential uses of a flat rooftop, which are ancillary to residential occupancies, shall be limited to uses which are ancillary to residential occupancies and ~~shall be limited to uses which are ancillary to residential occupancies~~ and shall be enclosed by a code-compliant safety railing or other approved barrier. Except as otherwise permitted by this code, no permanently affixed structures, including, gazebos, trellises, or other similar structures shall be allowed on the roof of a four-story building. Maintenance and repairs shall not be deemed occupancy as that term is used in this paragraph.
2. Rooftop dining, as defined by this Code, is permitted as a major conditional use, and in accordance with the supplemental standards in Section 2.06.19.

Sec. 2.06.19. Rooftop dining

A. Definitions. The term "rooftop dining" is found in Chapter XII of this Code.

B. Procedure and locations. Rooftop dining shall be permitted in the B-1 and B-2 zoning districts by Major Conditional Use Approval; in the Urban District by a Major Urban

Code Conditional Use Approval; in East Stuart by an East Stuart District Major Conditional Use Approval, or in Commercial Planned Unit Development (CPUD) or Mixed Use Planned Unit Development (MXPUD). Any existing CPUD or MXPUD may qualify for a rooftop dining area by obtaining a major PUD amendment.

C. Standards. Rooftop dining areas shall be subject to the following conditions:

- a. The rooftop dining area shall be associated with an establishment doing business within the principal building. The floor immediately below the rooftop area must be occupied by a nonresidential use.
- a.b. The preferred main access to the rooftop shall be from the interior space of the business within the principal building, provided an exterior access may be permitted upon demonstration of a de minimus impact on surrounding properties.
- b.c. Use of the rooftop shall not exceed the hours of operation for the principal use, but in no event shall the rooftop be open and occupied later than 10:00 PM.
- c.d. No live entertainment, music, speakers, television, or public address system shall be permitted on the rooftop. The windows and doors to areas where such noise originates shall be closed (except when being used as permitted means of egress), or such areas must be sound-proofed so as to prevent sound from being heard at the street level of the building.
- d.e. Service areas, preparation stations and similar facilities shall be ancillary in nature, as determined by the City Commission, and shall service the rooftop dining area only.
- f. All lights associated with the rooftop dining area shall be designed to effectively eliminate glare and not be directed towards property lines. All lighting associated with rooftop dining areas shall be turned off when the area is not in use.
- e.g. Walls or railings shall comply with the applicable Florida Building Code requirements.
- h. All applications for roof top dining shall be accompanied by an engineer's or architect's certification that the proposed use is compliant with all applicable codes, including ADA, Building Code and Life Safety Code standards, and that the subject building is structurally capable of supporting the additional loads.
- f.i. Seats associated with rooftop dining areas shall not be creditable towards obtaining a 4COP-SRX license; and the square footage of rooftop dining area will not be subject to the 30% gross floor area limitation in the Old Downtown Section as regulated by Section 4-3 of the Stuart Code of Ordinances.

g.j. The number of rooftop seats permitted in the Old Downtown District shall be capped at 24 per establishment unless a supplemental parking arrangement is proposed by the applicant and accepted by the City Commission.

k. To prevent litter and the possibility of intrusion by rodents, birds or other pests, rooftop dining area shall at all times, when the area is not in use, be kept free of trash, debris and food waste.

D. Expiration and revocation.

h.a. Approval for a rooftop dining area shall expire automatically upon the sale of the establishment and cannot be transferred to a subsequent owner. The subsequent owner may apply for a new conditional use permit.

Sec. 3.01.03.F. Additional regulations and requirements.

2. Urban district uses.

b. The following uses are permitted as conditional uses by major conditional use approval and are all-inclusive individually or in combination in the urban district subject to the regulations pertaining to formula businesses.

TABLE INSET:

i.	Parking lots;
ii.	Parking garages;
iii.	Gasoline sales shall be limited to properties on SE Federal Hwy., Green River Parkway, and Savannah Road;
iv.	Dry boat storage;
v.	Stealth telecommunications facilities in excess of 45 feet in height by special exception. Refer to chapter II Zoning Districts Uses Allowed, Density and Intensity, section 2.06.12 Supplemental Use Standards, and to chapter XI, Processing of Plan Applications, section 11.01.04, Special Exception Application;
vi.	Street vendors;
vii.	Drugstores and pharmacies over 2,000 square feet;
viii.	Formula businesses in the area described in section 2.06.13 of this Code.
ix.	<u>Rooftop dining areas (refer to supplemental standards in Section 2.06.19)</u>

Sec. 3.01.04. Architectural standards and regulations.

S. Residential rooftop use ~~occupancy~~ occupancy. Residential uses ~~Occupancy~~ Occupancy of a flat rooftop, which are ancillary to residential occupancies, shall be limited to uses which are ancillary to residential occupancies only and shall be enclosed by a code-compliant safety railing or other approved barrier. Except as otherwise permitted by this code, no permanently affixed structures, including, gazebos, trellises, or other similar structures shall be allowed on the roof of a 4-story building. Maintenance and repairs shall not be deemed occupancy as that term is used in this paragraph.

T. Rooftop dining. Rooftop dining, as defined by this Code, is permitted as a major conditional use, and in accordance with the supplemental standards set forth in Section 2.06.19.

Sec. 3.02.05. Development standards for the East Stuart Overlay District.

A. Business and mixed-use sub-district (BMU).

19. Rooftop dining as defined by this Code, is permitted as a major conditional use, and in accordance with the supplemental standards set forth in Section 2.06.19.

Sec. 3.02.06. Additional development standards.

M. Residential rooftop use ~~occupancy~~ occupancy. ~~Occupancy~~ Occupancy Residential uses of a flat rooftop, which are ancillary to residential occupancies, shall be limited to uses which are ancillary to residential occupancies only and shall be limited to uses which are ancillary to residential occupancies only and shall be enclosed by a code-compliant safety railing or other approved barrier. Except as otherwise permitted by this code, no permanently affixed structures, including, gazebos, trellises, or other similar structures shall be allowed on the roof of a four-story building. Maintenance and repairs shall not be deemed occupancy as that term is used in this paragraph.

N. Rooftop dining. Rooftop dining, as defined by this Code, is permitted as a major conditional use, and in accordance with the supplemental standards set forth in Section 2.06.19.

Chapter 12 DEFINITIONS

Rooftop dining: The use of a rooftop area by a restaurant for assembly or the consumption of food or beverages. The terms "restaurant" shall have the same meanings as set forth in this Chapter.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provisions of Section 1. of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect upon adoption.

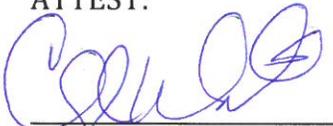
PASSED on First Reading this 11th day of January, 2016.

Commissioner **CAMPENNI** offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner **GLASS LEIGHTON** and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
JEFFREY KRAUSKOPF, MAYOR	x			
EULA CLARK, VICE MAYOR	x			
TROY MCDONALD, COMMISSIONER	x			
TOM CAMPENNI, COMMISSIONER	x			
KELLI GLASS LEIGHTON, COMMISSIONER	x			

ADOPTED on Second Reading this 25th day of January, 2016.

ATTEST:

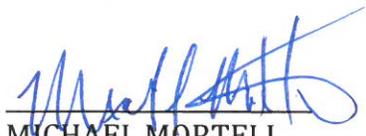


CHERYL WHITE
CITY CLERK



JEFFREY KRAUSKOPF
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:



MICHAEL MORTELL
CITY ATTORNEY

