ORDINANCE NO. 2022-78

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, RELATING TO NIGHTCLUBS IN THE DOWNTOWN ORLANDO COMMUNITY REDEVELOPMENT AREA; IMPOSING A TEMPORARY MORATORIUM FOR SIX MONTHS ON THE ACCEPTANCE, PROCESSING AND CONSIDERATION OF APPLICATIONS FOR DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, BUILDING PERMITS AND ZONING APPROVALS FOR NIGHTCLUBS IN THE DOWNTOWN ORLANDO COMMUNITY REDEVELOPMENT AREA; ADOPTING FINDINGS OF FACT; PROVIDING FOR POSSIBLE EXTENSION OR EARLY TERMINATION OF THE TEMPORARY MORATORIUM; PROVIDING LEGISLATIVE FINDINGS, AND FOR CORRECTION OF SCRIVENER’S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Orlando, Florida, a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, there has recently been an increase in criminal activity in the Downtown Orlando Community Redevelopment Area as well as an increase in issues related to public safety and crowd control; and

WHEREAS, the City Council is concerned about the impact of having an excessive number of nightclubs within the Downtown Orlando Community Redevelopment Area and desires for City staff to evaluate and potentially propose changes to Chapter 33, City of Orlando Code of Ordinances regulating alcoholic beverages, and to the City’s Land Development Code to address these issues; and

WHEREAS, the high concentration of nightclubs in the Downtown Orlando Community Redevelopment Area is a primary cause of negative secondary impacts, particularly late at night, such as noise, cruising, loitering by non-patrons and underage individuals in adjacent rights-of-way, and public intoxication; and
WHEREAS, nightclubs also have a negative impact on the City’s goal of
couraging active daytime uses within the Downtown Orlando Community
Redevelopment Area because nightclubs typically are not open during daytime hours;
and

WHEREAS, the City Council finds that too many nightclubs in the Downtown
Orlando Community Redevelopment Area negatively impacts the overall goal of creating
a desirable urban neighborhood as expressed by the City’s Growth Management Plan;
and

WHEREAS, the City wishes to place the public and all parties on notice that it is
considering potential code amendments and is creating a temporary moratorium on the
acceptance, processing and consideration of applications for development orders,
development permits, building permits and zoning approvals for any new (which includes
change of use and substantial improvement) nightclub use within the Downtown Orlando
Community Redevelopment Area; and

WHEREAS, pursuant to the pending legislation doctrine set forth in Smith v. City
of Clearwater, 383 So. 2d 681 (Fla. 2d DCA 1980), the City declares and implements the
pending ordinance doctrine concerning the zoning and land development regulations
governing properties located within the Downtown Orlando Community Redevelopment
Area; and

WHEREAS, the City Council of the City of Orlando (the “Orlando City Council”)
hereby finds that the temporary moratorium imposed by this ordinance is being imposed
for a reasonable duration intended to give the City the time reasonably necessary to
investigate the impacts of nightclubs in the Downtown Orlando Community
Redevelopment Area, and if necessary, to promulgate reasonable regulations relating to
such uses; and

WHEREAS, the Orlando City Council hereby finds and declares that this ordinance
is in the best interest of the public health, safety, and welfare.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT. The foregoing recitals are hereby ratified
and confirmed as being true and correct and are hereby made a part of this ordinance.

SECTION 2. DEFINITIONS. For the purposes of this ordinance, the following
terms are defined as follows:
Development order means the same as defined by Section 163.3164, Florida Statutes.

Development permit means the same as defined by Section 163.3164, Florida Statutes.

Building permit means the same as defined by Section 66.200, City of Orlando Land Development Code.

Nightclub means the same as defined by Section 66.200, City of Orlando Land Development Code.

Substantial permit plan submittal means a completed permit application form accompanied by a full set of plans signed and sealed by an authorized design professional. The plan set shall include any relevant civil and site work plans if needed to issue a building permit.

Downtown Orlando Community Redevelopment Area means the same area as the jurisdictional boundaries of the City of Orlando Community Redevelopment Agency’s Downtown Orlando Community Redevelopment Area established and amended from time to time pursuant to Part III, Chapter 163, Florida Statutes, as shown in the map attached as Exhibit A.

SECTION 3. TEMPORARY MORATORIUM. Beginning on the effective date of this ordinance and continuing for six (6) months, or as extended or terminated as provided by section 4 of this ordinance, a temporary moratorium is hereby imposed on the acceptance, processing and consideration of all applications for development orders, development permits, building permits and zoning approvals, including certificates of use, for all proposed nightclubs within the Downtown Orlando Community Redevelopment Area.

a. This moratorium includes any request for the City to sign a zoning approval as may be requested for application to the Florida Division of Alcoholic Beverages and Tobacco for an alcoholic beverage license.

b. This moratorium does not impact the ability of existing nightclubs currently operating within the Downtown Orlando Community Redevelopment Area from obtaining a building permit provided such building permit is sought for repair or maintenance of the existing premises.

c. This moratorium does not impact substantial permit plan submittals for proposed nightclubs or similar uses within the Downtown Orlando Community Redevelopment Area for development consistent with the Comprehensive Plan and approved development orders pre-dating the adoption of this ordinance.
d. This moratorium does not impact or prohibit city-initiated comprehensive plan amendments, zoning map amendments and land development code amendments.

SECTION 4. EXTENSION OR EARLY TERMINATION OF THE TEMPORARY MORATORIUM. The temporary moratorium imposed by section 3 of this ordinance may be extended or terminated early by adoption of an ordinance or resolution of the City Council.

SECTION 5. NON-CODIFICATION. The provisions of this ordinance shall not be included or incorporated within the Code of the City of Orlando, Florida.

SECTION 6. SCRIVENER’S ERROR. The city attorney may correct scrivener’s errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 7. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, this _______ day of __________________, 2023.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _______ day of __________________, 2023.

DONE, THE SECOND READING, A PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this _______ day of __________________, 2023.

[**Signatures on the following page**]
ORDINANCE NO. 2022-78

BY THE MAYOR OF THE CITY OF ORLANDO, FLORIDA:

____________________________________
Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

____________________________________
City Clerk

____________________________________
Print Name

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

____________________________________
Assistant City Attorney

____________________________________
Print Name