

Regular Council

STAFF MEMO



Meeting: Regular Council - Sep 10 2026

Staff Contact: Jay Hubsch

Department: Community Development

TITLE

FIRST READING: ORDINANCE 14-26: AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING CHAPTER 78. ZONING; PROVIDING MULTIPLE STAFF-RECOMMENDED UPDATES TO CHAPTER 78. ZONING; AMENDING CHAPTER 78 AT ARTICLE IX. – SUPPLEMENTAL REGULATIONS TO CLARIFY LOCATION OF ACCESSORY BUILDINGS; AT SECTION 78-309 TO ESTABLISH STANDARDS FOR OUTDOOR SEATING; ARTICLE VI. – SCHEDULE OF DISTRICT REGULATIONS; DIVISION 3. AFFORDABLE HOUSING AND LIVE LOCAL ACT; AMENDING THE VILLAGE'S LIVE LOCAL ACT PROVISIONS TO COMPLY WITH STATE MODIFICATIONS TO THE LIVE LOCAL ACT POLICY ADOPTED IN HB 1389 (2026); PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. ZONING SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

SUMMARY:

INTRODUCTION

Ordinance No. 14-26 proposes staff-recommended amendments to Chapter 78, Zoning, of the Village Code of Ordinances. The amendments are intended to clarify existing zoning regulations, establish standards for outdoor seating, and revise the Village's Live Local Act provisions to reflect recent changes to state law.

PROPOSED UPDATES

The proposed ordinance includes the following primary amendments:

1. **Accessory Structures – Section 78-289:** Clarifies where accessory structures, minor structures, and pools may be located. In single-family zoning districts, these improvements must generally be located behind the front of the home. The intent of the amendment is to prevent pools and other accessory improvements from being placed prominently in front yards and to maintain the traditional appearance and streetscape of residential neighborhoods. In mixed-use, multi-family, and commercial districts, greater flexibility for accessory structures is provided through the site plan review process.
2. **Outdoor Seating – New Section 78-309:** Establishes regulations for outdoor seating associated with restaurants, businesses, and institutions serving food or beverages. The proposed standards address access, location, pedestrian circulation, ADA accessibility, safety, outdoor furniture, property-owner consent, screening, compatibility, and protection from adjacent parking and drive aisles. The ordinance also establishes limited exemptions for small-scale casual outdoor seating and de minimis outdoor food service areas.

3. **Affordable Housing and Live Local Act – Division 3:** Updates the Village’s existing Live Local Act regulations to address modifications to state law adopted through HB 1389 (2026). The amendments are relatively minor and will bring the Village's Live Local code into compliance with recent updates to the Florida Statutes.

PLANNING AND ZONING BOARD RECOMMENDATION

At its August 20, 2026, meeting, the Planning and Zoning Board, sitting as the Local Planning Agency, recommended approval of Ordinance 14-26 to the Village Council by a vote of 5-0.

This document and any attachments may be reproduced upon request in an alternative format by completing our Accessibility Feedback Form, sending an e-mail to the Village Clerk or calling 561-768-0443.

ADDITIONAL REQUIREMENTS:

BUDGET AMOUNT NA AMOUNT AVAILABLE NA EXPENDITURE AMOUNT: NA

FUNDING SOURCES: NA

IS THIS A PIGGYBACK:

☐ Yes ☐ N/A

DID YOU OBTAIN 3 QUOTES?

☐ Yes ☐ N/A

COMMENTS/EXPLANATION ON SELECTION NA

ORDINANCE: IF THIS IS AN ORDINANCE, DOES IT REQUIRE A BUSINESS IMPACT ESTIMATE PER FS 166.041(4a)? IF SO, PLEASE INCLUDE IT AS BACKUP.

☐ Yes ☐ No

ATTACHMENTS:

[Ordinance 14-26 Amending Chapter 78](#)

[Business Impact Statement Ordinance 14-26](#)

ORDINANCE NO. 14-26

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING CHAPTER 78. ZONING; PROVIDING MULTIPLE STAFF-RECOMMENDED UPDATES TO CHAPTER 78. ZONING; AMENDING CHAPTER 78 AT ARTICLE IX. – SUPPLEMENTAL REGULATIONS TO CLARIFY LOCATION OF ACCESSORY BUILDINGS; AT SECTION 78-309 TO ESTABLISH STANDARDS FOR OUTDOOR SEATING; ARTICLE VI. – SCHEDULE OF DISTRICT REGULATIONS; DIVISION 3. AFFORDABLE HOUSING AND LIVE LOCAL ACT; AMENDING THE VILLAGE’S LIVE LOCAL ACT PROVISIONS TO COMPLY WITH STATE MODIFICATIONS TO THE LIVE LOCAL ACT POLICY ADOPTED IN HB 1389 (2026); PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. ZONING SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Community Development Department has undertaken a comprehensive review of Chapter 78 Zoning and is recommending multiple ‘best practices’ revisions to the existing code; and

WHEREAS, the Village Council finds that regulating the location of accessory structures in single-family districts will preserve the intended streetscape, maintain consistency among neighboring properties, and protect the aesthetic quality of residential neighborhoods; and

WHEREAS, the Village Council further finds that reasonable standards governing the location, size, design, furnishing, screening, and review of outdoor seating areas are necessary to prevent nuisance conditions, reduce conflicts among neighboring uses, and protect the public health, safety, and welfare; and

WHEREAS, the Florida legislature amended the Statewide live local act policy via HB 1389 (2026) and several modifications to the existing Village Live Local Act ordinance are required in order to conform with the new state law update; and

WHEREAS, the Village of Tequesta finds that these modifications to Chapter 78 Zoning of the Code of Ordinances recommended by the Village Community Development Department will generally promote the public health, safety and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, THAT:

Section 1: Chapter 78 – Zoning is hereby amended at Article IX. – Supplemental Regulations; Section 78-289. Location of accessory buildings shall hereafter read as follows:

Sec. 78-289. Location of accessory buildings.

- (a) In single-family zoning districts, No accessory structure, minor structure, or pool except as otherwise provided by this chapter, shall be located in the area between the front setback line of the principal structure and the street line unless such lot fronts Beach Road permitted to extend forward of the most rearward portion of the front building façade of the principal structure, as measured by a line extending parallel to the front lot line across the width of the lot. In mixed-use, multi-family, and commercial zoning districts, accessory structures, minor structures, and pools may be located forward of principal structures if approved through the site plan review process under 78-335.
- (b) Where the accessory structure is attached to the principal structure or connected thereto by a breezeway, the side yard shall be measured from the outer wall thereof.

Section 2: Chapter 78 – Zoning is hereby amended at Article IX. – Supplemental Regulations; Section 78-309. – Outdoor Seating is hereby created to read as follows:

Section 78-309.-Outdoor Seating

For the purpose of this section, serve or service shall mean the act of a waiter, waitress, or employee of the food service establishment taking food or beverage orders and providing delivery of food or beverages to the patrons seated area.

- (a) Applicability. Outdoor seating shall be permitted as an accessory use to a restaurant, business, or institution serving food or beverages in an enclosed area, subject to the standards listed below.
 - (1) Access. The outdoor seating area is adjacent to, and has direct access through, a doorway to that portion of the business or institution which is enclosed.
 - (2) Location. The outdoor seating is located adjacent to the restaurant or food service establishment and is owned or leased for this purpose.
 - (3) General circulation. The outdoor seating can be accommodated without impeding the access of the general public to one (1) or more of the following:
 - a. The enclosed portion of the restaurant or food service establishment;
 - b. Any other use located within the same building or structure; or
 - c. Any unauthorized common elements shared by the restaurant or food service establishment and any other users of the same building or structure.
 - (4) Safety. Outdoor seating shall comply with all building, fire, and safety code requirements.
 - (5) Outdoor furniture. Furniture that is designed as outdoor furniture, which can withstand the elements, rain and intense sun, shall be used.
 - (6) Consent. A copy of the written consent of the individual, corporation, or other entity that owns the property upon which the outdoor seating will be located.

(b) Minimum standards. Outdoor seating shall, at a minimum, comply with the standards listed below.

- (1) Walkways. Outdoor seating shall be arranged, when in use, in a manner that provides pedestrian accessibility, maintains compliance with the Americans with Disabilities Act (ADA), and meets all building codes.
- (2) Multiple tenants. Outdoor seating located on a pedestrian walkway which provides access to more than one (1) occupant of a building shall provide an unobstructed passageway of at least six (6) feet in width. The unobstructed passageway shall be located adjacent to, but not through, the outdoor seating area.
- (3) Location. Outdoor seating shall be located only adjacent to the affected restaurant or food service establishment, and shall not be located in front of or adjacent to any other user or tenant, unless otherwise approved by the community development director.
- (4) Prohibited location. Outdoor seating shall not be located within any area designated for parking.
- (5) Fencing or screening. Fencing or screening may be required as a means to physically separate such use from any adjacent public passageway, street, or community as a means for public safety and to avoid nuisance. When outdoor seating is proposed adjacent to parking spaces or drive aisles, safety elements such as bollards or reinforced planters shall be utilized to prevent vehicle intrusion. In areas located within a courtyard or developments that are designed to accommodate the outdoor seating in a safe manner, fencing or screening may not be necessary.
- (6) Compatibility. Outdoor seating, including fencing and screening materials, shall be compatible in color and style with the exterior of the building. Signs, lettering, or advertising, excluding permitted menu board, shall not be attached to outdoor seating. Small labels may be permanently attached to the furnishing to identify ownership for security purposes.

(c) Exemptions. The following are exempt from formal review of outdoor seating but shall comply with section 78-309(a), applicability:

- (1) Casual seating without service. Businesses, institutions, or uses that serve food or beverages solely inside may have outdoor casual seating, such as a bench or a maximum of three tables (12 seats) or no more than 200 square feet, whichever is less, provided all accessibility standards are met.
- (2) De minimus standard. Businesses, institutions, or uses that serve food or beverages may be approved to serve food for outdoor seating by a maximum of three tables (12 seats) or no more than 200 square feet, whichever is less, provided all accessibility standards are met.

Section 3: Chapter 78 – Zoning is hereby amended at Article VI. – Schedule of District Regulations; Division 3. – Affordable Housing and Live Local Act shall hereafter read as

follows:

DIVISION 3. – AFFORDABLE HOUSING AND LIVE LOCAL ACT

Sec. 78-200. Title, applicability.

This division shall be known as the Village of Tequesta Affordable Housing and Live Local Act. The provisions of this division shall apply to any application for the development of land authorized under F.S. § 166.04151(7). Except as otherwise provided herein, any application for the development of land shall comply with all applicable procedures and requirements of the Village Code. Only properties within the Commercial (C-1, C-2, and C-3), Mixed Use (MU) zoning districts, as well as qualifying publicly owned, school district-owned, airport, and religious institutions are eligible to use the provisions of F.S. § 166.04151(7). F.S. § 166.04151(7) may establish additional criteria for the above uses to be eligible.

Sec. 78-201. Site plan review.

- (a) *Site plan review.* Site plan review is required prior to any development of land as further provided at section 78-331 herein-below except that all referenced public hearing recommendations and approvals before the planning and zoning board or village council shall be conducted via administrative review. The requirement to make a conceptual presentation to the village council as contemplated by section 78-332 of the Village Code of Ordinances shall likewise be conducted via administrative review.
- (b) *Administrative review.* A site plan that complies with F.S. § 166.0451(7) and the applicable Village Code provisions shall be subject to administrative approval by the director of community development and the village manager, in lieu of any public hearings before the planning and zoning board or village council.

Sec. 78-202. Density.

Any development of land pursuant to this division and F.S. § 166.0451(7) shall not exceed the highest allowed density permitted by the Village Comprehensive Plan and Village Code, under F.S. § 166.04151(7).

Sec. 78-203. Height.

Any development of land pursuant to this division and F.S. § 166.0451(7) shall not exceed the maximum height permitted by village comprehensive plan and Village Code under F.S. § 166.04151(7). The Village shall not apply setbacks, stepbacks, or other dimensional requirements in a manner that has the effect of reducing the maximum building height otherwise authorized by Section 166.04151, Florida Statutes.

Sec. 78-204. Development standards and criteria.

- (a) *General requirements.* In order to be eligible for administrative review, the development of land pursuant to this division and F.S. § 166.0451(7) shall comply with the land

development regulations for the multi-family zoning district which sets the height for the proposed development; provided however, a development that is three stories or less shall comply with the land development regulations for the MU zoning district.

- (b) *Equivalent treatment of all dwelling unit requirements.* All affordable dwelling units and market rate dwelling units shall be located within the same structure. All common areas and amenities shall be accessible and available to all residents of both affordable and market rate dwelling units. Access to the required affordable dwelling units shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development. In addition, the sizes and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in the market rate dwelling units (e.g., for number of bedrooms, if 25 percent of the market rate dwelling units consist of two bedrooms, then 25 percent of the affordable dwelling units shall also have two bedrooms).
- (c) *Mixed-use residential.* Any site plan that is administratively approved pursuant to this division shall consist of a mixed-use residential project in accordance with the provisions of F.S. § 166.04151(7). For purposes of this division, a "mixed-use residential project" shall be comprised of no less than 20 percent and no more than 80 percent residential uses, shall comply with all height and density limitations set forth in this division, and shall otherwise comply with the village's comprehensive development plan and all other applicable development criteria set forth in this division and in the Village's Code of Ordinances.
- (d) *Unified lot.* ~~All residential and non-residential components of the site plan shall be located on the same or unified lot.~~ Parcel Configuration. A qualifying development may consist of one or more parcels where permitted by Section 166.04151, Florida Statutes, as amended. Multiple parcels may be developed as a single project where authorized by state law.
- (e) *Criteria.* No site plan shall be administratively approved unless and until the community development director and the village manager have determined that the site plan complies with the applicable provisions of the village's zoning ordinances, the applicable provisions of the village's building codes, all other ordinances affecting the development of land in the village, and the applicable provisions of the Village of Tequesta Comprehensive Development Plan.
- (f) *Single-family adjacency.* If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential development with at least 25 contiguous single-family homes, the municipality may restrict the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the municipality's land development regulations, or three stories, whichever is higher. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

Sec. 78-205. Requirements for advertising and notice.

In addition to all other applicable advertising and notice requirements of Florida Statutes, the advertising and notice requirements of section 78-334 of the Village Code shall apply to all applications that are submitted for approval pursuant to this division and F.S. § 166.0451(7).

Sec. 78-206. Affordability commitment.

Pursuant to F.S. § 166.04151(7), at least 40 percent of the multi-family residential dwelling units shall remain affordable, as defined in F.S. § 420.0004, for a period of at least 30 years. This requirement shall be incorporated as a condition into any administrative approval. Furthermore, as a prerequisite to the issuance of a building permit, the owner shall execute and deliver to the village for recordation in the public records, in a form approved by the village attorney, a covenant, declaration of restriction, or other deed restriction in favor of the village ensuring compliance with this affordability requirement. Also, compliance with this requirement, in a form that is acceptable to the village attorney, shall be provided to the village manager on an annual basis no later than October 1 of each year covering the preceding 12-month period.

Sec. 78-207. Appeal.

Any applicant or other aggrieved person may appeal, pursuant to chapter 78, article III of the Village Code, an administrative order, decision, approval, or interpretation in the enforcement of the regulations of this division.

Sec. 78-208. Violations, enforcement.

Any development of land pursuant to this division and F.S. § 166.0451(7) which fails to comply with all requirements of this division shall be a violation of Village Code, enforceable through the code enforcement special magistrate process as set forth in chapter 2, article IV of the Village Code of Ordinances. Each separate requirement that is violated shall constitute a separate violation. Each day that any such violations continues to exist shall constitute a separate violation. Each separate address that contains the same violation shall be considered a separate offense. It shall be the policy of the village to seek the maximum daily fines allowed by law for each such violation of any requirement of this division, and any development order that is issued pursuant to this division. It shall be the further policy of the village to record the imposition of such daily fines as liens against the property in the public records of Palm Beach County, and to seek foreclosure of such liens when deemed appropriate and advantageous to do so by the village council, upon advice from the village manager and the village attorney.

Secs. 78-209—78-210. - Reserved.

Section 4: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 5: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 6: Specific authority is hereby granted to codify this Ordinance.

Section 7: This Ordinance shall take effect immediately upon adoption.

BUSINESS IMPACT ESTIMATE

As required by Sec. 166.041(4), *Florida Statutes* (2024), this “Business Impact Estimate” is provided for Ordinance No. 14-26:

ORDINANCE NO. 14-26

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING CHAPTER 78. ZONING; PROVIDING MULTIPLE STAFF RECOMMENDED UPDATES TO CHAPTER 78. ZONING; AMENDING CHAPTER 78 AT ARTICLE IX. – SUPPLEMENTAL REGULATIONS TO CLARIFY LOCATION OF ACCESSORY BUILDINGS; AT SECTION 78-309 TO ESTABLISH STANDARDS FOR OUTDOOR SEATING; AT 78-397 TO MODIFY THE PROHIBITED PLANT LIST; ARTICLE VI. – SCHEDULE OF DISTRICT REGULATIONS; DIVISION 3. AFFORDABLE HOUSING AND LIVE LOCAL ACT; AMENDING THE VILLAGE’S LIVE LOCAL ACT PROVISIONS TO COMPLY WITH STATE MODIFICATION TO THE LIVE LOCAL ACT POLICY ADOPTED IN HB 1389 (2026) PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 78. ZONING SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Part I. Summary of the proposed ordinance and statement of public purpose:

Ordinance 14-26 revises Chapter 78 Zoning at Sections 78-309, 78-397 and 78-297. The ordinance modifies how location of accessory structures on single family properties are derived. The Ordinance also creates an outdoor seating section governing the use of outdoor seating for food services establishments. The ordinance modifies the existing prohibited plant list. Finally the ordinance modifies the Village Live Local policy to incorporate required state-level changes from the recent state adoption of HB 1389 (2026).

Part II. Estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Village of Tequesta:

a. Estimate of direct compliance costs that businesses may reasonably incur if the proposed ordinance is enacted:

None. No direct charges imposed on businesses.

b. Identification of any new charges or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

No direct charges or fees proposed.

c. An estimate of the Village of Tequesta's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

None.

Part III. Good faith estimate of the number of businesses likely to be impacted by the ordinance:

Food service establishments must abide by the outdoor seating requirements. The ordinance does not impose any direct costs associated with these provisions.

Part IV. Additional Information (if any): None.