

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ORDINANCE NO. 81-22, AS AMENDED, AMENDING NASSAU COUNTY CODE OF LAWS AND ORDINANCES, SPECIFICALLY AMENDING SECTION 4-1 AND CHANGING THE TITLE FROM WINE AND BEER VENDORS LICENSE LIMITED TO SALE WITHOUT STATE LICENSE PROHIBITED; AMENDING SECTION 4-2 AND CHANGING THE TITLE FROM LIMITATION ON NUMBER OF LIQUOR LICENSES ISSUED, EXCEPTIONS (AS SET FORTH IN SPECIAL ACT 81-440, AS AMENDED) TO APPLICABILITY OF ZONING TO ALCOHOLIC BEVERAGE LICENSES; AMENDING AND RENUMBERING SECTION 4-3 AND CHANGING THE TITLE FROM DISTANCE RESTRICTIONS FOR CERTAIN LAND USES AND HOURS OF SALE TO HOURS OF SALE; ADDING DIVISION TO SECTION 4-7 DEFINITIONS; AMENDING SECTION 4-11; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, Florida, finds that it is in the best interests of the citizens of Nassau County to amend Ordinance No. 2017-37 in accordance with state beverage regulations; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida has previously set the distance restrictions from churches and schools for alcoholic/intoxicating beverage establishments and the Board finds that it is not detrimental to the health, safety and general welfare of the citizens of Nassau County, Florida to remove those restrictions; and

WHEREAS, the Board of County Commissioners finds it necessary to reference the applicability of zoning in relation to alcoholic beverage licenses.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida, that Article 4, Sections 4-1 through and Section 4-11 of the Code of Laws and Ordinances of Nassau County, Florida, shall be further amended to read as follows:

Sec. 4-1. - Sale without state license prohibited. ~~Wine and beer vendors license limited.~~

- (a) It shall be unlawful for any person to sell, distribute, or manufacture any alcoholic beverages in the County until such person has obtained a license to do so as provided by the state beverage law. All vendors shall comply with all laws of the State and all rules and regulations promulgated by the Division in the conduct and operation of all businesses authorized to sell, serve, and dispense alcoholic beverages. ~~The number of licenses which may be granted for the sale of wine and/or beer (as defined by "The Florida Beverage Law") outside any incorporated city or town within Nassau County to vendors operating places of business where vinous or malt beverages are sold, is limited to only those vendors making new application after the enactment date of this subsection who shall meet the following requirements:~~

- ~~(1) The place of business of the vendor shall have an assessed value of a minimum of fifty thousand dollars (\$50,000.00).~~
- ~~(2) The seating capacity of the place of business of the vendor shall be for a minimum of seventy five (75) patrons.~~
- ~~(3) The license issued hereunder is not transferable without approval of the Nassau County Planning and Economic Opportunity Department. Denial of the transfer may be appealed to the Nassau County Planning and Zoning Board.~~

Sec. 4-2. - Applicability of zoning to alcoholic beverage licenses. ~~Limitation on number of liquor licenses issued; exceptions. (As set forth in Special Act 81-440, as amended).~~

- (a) Notwithstanding the provisions of general law, vendors holding a license with the Division under State beverage laws shall be subject to County alcoholic beverage zoning regulations. ~~No license under Section 565.02(1)(a) — (f), Florida Statutes, shall be issued in Nassau~~

~~County, so that the number of such licenses within the limits of the territory of Nassau County, exceeds one such license to each seven thousand five hundred (7,500) residents within Nassau County, as shown by the last regular state or federal census.~~

~~(b) Such limitation of the number of licenses issued, anything in general law notwithstanding, shall not prohibit the issuance of a special license to:~~

~~(1) Any bona fide hotel, motel, or motor court which has at least fifty (50) guest rooms.~~

~~(2) Any bona fide restaurant having not less than two thousand five hundred (2,500) square feet of service area and equipped to serve at least one hundred fifty (150) persons full course meals at one time and deriving at least fifty one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages.~~

~~(3) Subject to the exception in subsection (b), any license which is presently authorized by general law to issue as an exception to population restrictions may be issued in Nassau County.~~

~~Sec. 4-3. – Hours of sale. DISTANCE RESTRICTIONS FOR CERTAIN LAND USES AND HOURS OF SALE.~~

~~Vendors of alcoholic/intoxicating beverages and bottle clubs.~~

~~(A) Generally. Except as set forth in Paragraphs (2) and (5), it shall be unlawful for any person, firm, association or corporation to establish, maintain or carry on the business of vendor of alcoholic/intoxicating beverages for off premise or on premise consumption or for a bottle club or wine and beer vendors, as defined herein, to allow the consumption on premises or sale for off premises of alcoholic/intoxicating beverages within one thousand (1,000) feet in airline~~

~~distance measured from building to building at their closest points to any established school or church, except as may be provided herein; provided that nothing herein contained shall affect any such business, vending alcoholic/intoxicating beverages both for sale or for consumption on or off the premises, which was actually being legally carried on within such distance of any established school or church on or before the effective date of this article.~~

~~(B) Restaurants and vendors, including wine and beer vendors, as defined herein, located in the unincorporated areas of Amelia Island and the State Road 200/A1A Access Management Overlay District serving or selling alcoholic/intoxicating beverages for on premise or off premise consumption, shall be exempt from the generally applicable distance regulations which state that the sale of alcoholic or intoxicating beverages shall not be permitted within one thousand (1,000) feet in airline distance measured from building to building at their closest points to any established school or church.~~

~~(C) The distance requirements described in this section shall be applied reciprocally to churches and schools.~~

~~(D) (1) It shall be unlawful for any alcoholic beverages, including wine and/or beer, to be sold, served, dispensed, or consumed or permitted to be served or consumed on the premises of any licensee operating under a valid license issued by the Division between the hours of 2:00 a.m. and 2:00 p.m. on Sunday except as set forth in paragraph (a) below:~~

~~a. Restaurants and vendors of alcoholic/intoxicating beverages and wine and beer vendors, and bottle clubs, as defined herein, for on premises and off~~

~~premises consumption,~~ Vendors in the SR200/A1A Access Management Overlay and the unincorporated areas of Nassau County east of I-95 may sell, serve, or permit to be served alcoholic/intoxicating beverages on Sunday commencing at 7:00 a.m. -The ability for restaurants to sell, serve, or permit to be served alcoholic/intoxicating beverages shall only be in conjunction with meals. In no instance shall sales be permitted between the hours of 2:00 a.m. and 7:00 a.m. on Sundays.

- ~~(E) The sale of alcoholic/intoxicating beverages, wine and beer, and bottle clubs, whether for restaurants and vendors for on premises or off premises consumption, in the unincorporated areas of Nassau County, including Amelia Island and the State Road 200/A1A Access Management Overlay District, shall not be permitted between the hours of 2:00 a.m. and 7 a.m. on Sundays.~~
- ~~(F) Except as set forth in Paragraphs (4) above, no vendors of alcoholic/intoxicating beverages or wine and beer for on premise or off premise consumption, or bottle clubs shall sell, serve, or permit to be served the herein described beverages between the hours of 2:00 a.m. and 2:00 p.m. on Sundays.~~

Sec. 4-4. - Renewal of licenses unaffected.

The terms and provisions of this ordinance shall not prevent nor prohibit the continuous renewal of any licenses presently issued.

Sec. 4-5. - Sections 4-1 through 4-3 ineffective as to special act or ordinances and resolutions of municipalities.

Sections 4-3 through 4-5 shall not, in any manner, affect, change or modify any local or special act or acts with respect to or relating to any incorporated city or town within the limits of Nassau

County, or any ordinance or resolution of any incorporated city or town within the limits of Nassau County, now or hereafter in force and effect.

Sec. 4-6. - Bottle clubs.

Definitions. For the purpose of this section the following definition of terms shall control:

(1) *Bottle club* is, pursuant to Rule 61A-3.049, F.A.C.:

- (a) A commercial establishment;
- (b) Operated for profit, whether or not a profit is actually made;
- (c) A premises where alcoholic beverages are not sold but where patrons are allowed to consume alcoholic beverages on the premises;
- (d) Located in a building or other enclosed or covered structure.

(2) The definition of a bottle club does not include:

- (a) Sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held.
- (b) Bona fide restaurants licensed by the Division of Hotels and Restaurants, whose primary business is the service of full course meals. A public food service establishment licensed by the Division of Hotels and Restaurants is not conclusive in determining whether or not a public food service establishment is a bona fide restaurant. A bona fide restaurant is a premises that holds itself out to be primarily a restaurant, advertises as a full service restaurant, offers a complete menu as opposed to snacks or fast food, and meets all of the requirements of Rule 61A-3.0141, F.A.C.,

except for the requirements that 51 percent of the gross proceeds come from food and non-alcoholic beverages.

(c) Hotels and motels licensed by the Division of Hotels and Restaurants.

(b) *Closing hours.*

(1) All bottle clubs, except as set forth in paragraph (2) below, located in Nassau County, outside of municipalities, shall remain closed on each Sunday from the hours of 2:00 a.m. until 2:00 p.m.

(2) Patrons of bottle clubs located in the unincorporated area of Amelia Island and within the State Road 200/A1A Access Management Overlay District shall be allowed to consume alcoholic beverages on Sunday commencing at 7:00 a.m.

(c) *Provisions not to effect certain establishments.* This section shall not be construed to effect, nor is intended to effect, those places or establishments whose hours are established or controlled pursuant to Chapter 562.14(4), Florida Statutes.

(d) *Penalty.* Any person or persons, firm or corporation or agent thereof who violates any of the provisions of this section shall be punished by a fine in a sum not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment.

Sec. 4-7. - Definitions.

(a) *Definitions.* For the purposes of this section, the following terms and/or definitions shall have the meaning given herein:

Alcoholic beverages shall mean all beverages containing one-half of one (1) percent or more alcohol by volume.

County shall mean the unincorporated areas of Nassau County, Florida.

Division shall mean the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

Intoxicating beverage and intoxicating liquor shall mean only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

Meals shall mean food prepared and served in a restaurant.

Restaurant shall mean the area or areas designated ~~by the resort~~ that have food prepared for immediate consumption, and served and sold in that designated area and said designated area shall be licensed and authorized by the appropriate governmental agency, or any establishment, whose principal business is the sale of food to the consumer in a ready-to-consume state, and whose principal method of operation includes customers who are served foods or beverages by a restaurant employee at the same table or counter at which the items are consumed, and is licensed and authorized by the appropriate governmental agency.

Sale shall mean any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with or as a part of a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage, or permitting an alcoholic beverage to be served or consumed, in any place holding a license under the division of alcoholic beverages and tobacco or other appropriate state agency and/or Nassau County.

Vendor shall mean any place of business where alcoholic/intoxicating beverages are sold, or served for on or off premise consumption, and licensed under the direction of alcoholic beverages and tobacco or other appropriate state agency and/or Nassau County.

(b) *Resolutions*. All resolutions in conflict with the provisions of this section are hereby repealed.

Sec. 4-8. - Consumption while operating a motor vehicle.

(a) It shall be unlawful for any person to consume any beer, wine or alcoholic/intoxicating beverage while operating a motor vehicle on the public streets of the unincorporated areas of Nassau County.

(b) For the purpose of this section, "motor vehicle" shall be as such is defined in F.S. § 320.01, together with mopeds and any other motorized vehicle.

Sec. 4-9. - Open containers.

(a) It shall be unlawful for any person to have in his/her possession any cup, can or other open or unsealed container, without limitation, of any beer, wine or alcoholic/intoxicating beverage, in the passenger compartment or within the reach of any driver or passenger of any motor vehicle while such vehicle is being operated on any of the streets, roads, highways or parking areas or lots within the unincorporated areas of Nassau County.

(b) This provision shall not apply to licensed wholesalers, distillers, retailers or jobbers transporting such beverages in the ordinary course of business.

Sec. 4-10. - Drinking beer, wine or alcoholic/intoxicating beverages in public places; open containers.

- (a) It shall be unlawful for any person to consume or drink any beer, wine or other alcoholic/intoxicating beverage on any public street, highway, right-of-way, sidewalk, boardwalk or other public places not duly licensed to permit the consumption of said beverages on the premises in the unincorporated Nassau County.
- (b) *Public places* shall be deemed, for the purpose of this section, to include as well all publicly-owned or controlled properties set aside primarily for public use.
- (c) It shall be unlawful for any person to have in his/her possession any cup, can or other open or unsealed container, without limitation, of any beer, wine or alcoholic/intoxicating beverage, on any public street, roadway, right-of-way, sidewalk, boardwalk or other public place not duly licensed to permit the consumption of said beverages on the premises in the unincorporated areas of Nassau County.
- (d) Possession of an open container containing an alcoholic/intoxicating beverage by any person in the areas prohibited by this section shall be prima facie evidence of a violation of this section.

Sec. 4-11. - Penalty for violation of sections 4-3(~~E~~) and 4-3(~~F~~) and sections 4-8 through 4-10.

It shall be unlawful for any person to violate or fail to comply with any provision of sections 4-3(~~E~~) and 4-3(~~F~~) and sections 4-8 through 4-10 4. The violation of any provision of such sections shall be punishable by a fine not exceeding five hundred dollars (\$500.00), or imprisonment for a term not exceeding sixty (60) days, or by both fine and imprisonment. Each day any violation of any provision of sections 4-3(~~E~~) and 4-3(~~F~~) and sections 4-8 through 4-10 shall continue shall constitute a separate offense.

EFFECTIVE DATE:

The effective date of this Ordinance shall be upon its being filed with the Department of State.

DULY ENACTED this _____ day of _____, 2019.

ATTEST AS TO CHAIRMAN'S
SIGNATURE:

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

JOHN A. CRAWFORD
Its: Ex-Officio Clerk
APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

JUSTIN TAYLOR
Its: Chairman

MICHAEL S. MULLIN