

ORDINANCE NO. 2017-__

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, WINE AND BEER VENDORS LICENSE LIMITED; RESCINDING SECTION 4-2, EXEMPTIONS; RENUMBERING SECTION 4-3 TO SECTION 4-2, LIMITATION ON NUMBER OF LIQUOR LICENSES ISSUED, EXCEPTIONS (AS SET FORTH IN SPECIAL ACT 81-440, AS AMENDED); AMENDING AND RENUMBERING SECTION 4-4 TO SECTION 4-3, DISTANCE RESTRICTIONS OF VENDORS OF ALCOHOLIC BEVERAGES FROM CHURCHES AND SCHOOLS AND HOURS OF SALE; EXCEPTIONS; AMENDING AND RENUMBERING SECTION 4-5 TO SECTION 4-4, RENEWAL OF LICENSES UNAFFECTED; AMENDING AND RENUMBERING SECTION 4-6 TO SECTION 4-5, SECTION 4-1 THROUGH 4-3 INEFFECTIVE AS TO SPECIAL ACT OR ORDINANCES AND RESOLUTIONS OF MUNICIPALITIES; AMENDING AND RENUMBERING SECTION 4-7 TO SECTION 4-6, BOTTLE CLUBS; AMENDING AND RENUMBERING SECTION 4-8 TO SECTION 4-7, CHANGING THE TITLE FROM SUNDAY SALES TO DEFINITIONS; RENUMBERING SECTION 4-9 TO SECTION 4-8, CONSUMPTION WHILE OPERATING A MOTOR VEHICLE; RENUMBERING SECTION 4-10 TO SECTION 4-9, OPEN CONTAINERS; RENUMBERING SECTION 4-11 TO SECTION 4-10, DRINKING BEER, WINE OR ALCOHOLIC/INTOXICATING BEVERAGES IN PUBLIC PLACES; OPEN CONTAINERS; AMENDING AND RENUMBERING SECTION 4-12 TO SECTION 4-11, PENALTY FOR VIOLATION OF SECTIONS 4-8 TO 4-10; PROVIDING AN EFFECTIVE DATE.

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 set the hours of Sunday sales for on premises and off premises consumption for the sale of alcoholic/intoxicating beverages in the unincorporated areas of Amelia Island and the SR 200/A1A Access Management Overlay District; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida, finds it is in the best interest of the citizens of Nassau County that the Sunday Hours of Sale of

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Alcoholic/Intoxicating Beverages and distance restrictions be uniform for the unincorporated areas of Amelia Island and the SR 200/A1A Access Management Overlay District; and

WHEREAS, the Board of County Commissioners finds that amending the hours of Sunday sale of alcoholic/intoxicating beverages and distance restrictions for the aforementioned areas is not detrimental to the health, safety and general welfare of the citizens of Nassau County, Florida; and

WHEREAS, the Board of County Commissioners of Nassau County finds that the Sunday Hours of Sale and distance restrictions outside the SR200/A1A Access Management Overlay District and the unincorporated areas of Amelia Island shall be separate from the balance of the unincorporated areas of Nassau County.

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. - Wine and beer vendors license limited.

(a) The number of licenses which may be granted for the sale of wine and/or beer ~~intoxicating beverages~~ (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).

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(2) The seating capacity of the place of business of the vendor shall be for a minimum of seventy-five (75) patrons.

~~(3) The sale of alcoholic beverages shall not exceed thirty (30) percent of gross sales of the combined sale of food and beverages. Such percentage shall be established by sworn affidavit of the licensee with all records being subject to audit by Nassau County Commission.~~

~~(34) The license issued hereunder is not transferable without approval of the Nassau County Planning and Economic Opportunity Department. Commission. Denial of the transfer may be appealed to the Nassau County Planning and Zoning Board.~~

~~(5) Any references to "beverages containing alcohol of more than fourteen (14) percent by weight" in Laws of Florida, Chapter 57-1600 shall be amended to read "spirituous or distilled spirits" in the reference.~~

~~(b) Subsection (a) of this section shall not apply to vendors selling intoxicating beverages as described in subsection (a), for consumption off premises, which licenses are not so restricted as to number.~~

Sec. 4-2. Same Exemptions.

~~Section 4-1 shall not apply to operators of railroads, sleeping cars, steamships, buses and airplanes obtaining licenses which are valid throughout Florida under the Beverage Law of Florida, or to incorporated clubs, including social clubs, and caterers at horse or dog racing plants as defined in the Beverage Law of Florida, and to owners of hotels of not less than fifty (50) guest rooms, and such operators of railroads, sleeping cars, steamships, buses and airplanes obtaining licenses valid throughout Florida, and such incorporated clubs, including social clubs, and caterers at horse~~

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~~or dog racing plants as so defined, and such owners of said hotels are excepted from the provisions of section 4-1, and such licenses issued to any hotel owner shall only license the sale of intoxicating beverages in any such hotel and not elsewhere, and shall not be transferable except to a purchaser of said hotel when the owner shall make a bona fide sale of said hotel.~~

Sec. 4-23. - Limitation on number of liquor licenses issued; exceptions. (As set forth in Special Act 81-440, as amended).

- (a) 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. 4-34. – DISTANCE RESTRICTIONS FOR CERTAIN LAND USES AND HOURS OF SALE.

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~~See Section 33.01 of Appendix A, Land Development Code.~~

Vendors of alcoholic/intoxicating beverages and bottle clubs.

- (A) Generally. Except as set forth in Paragraphs (D) and (E), 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 November 15, 1971.
- (B) The distance requirements described in this section shall be applied reciprocally to churches and schools.
- (C) Restaurants and vendors of alcoholic/intoxicating beverages and wine and beer vendors, as defined herein, for on premises and off premises consumption, in the unincorporated areas of Amelia Island and the State Road 200/A1A Access Management Overlay District 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.

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- (D) 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.
- (E) The sale of alcoholic/intoxicating beverages, whether for restaurants and on premises or off premises consumption, in the unincorporated areas of 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.

Sec. 4-45. - Renewal of licenses unaffected.

The terms and provisions of ~~sections 4-8 through 4-10~~ this ordinance shall not prevent nor prohibit the continuous renewal of any licenses presently issued.

Sec. 4-56. - Sections 4-1 through 4-3 ineffective as to special act or ordinances and resolutions of municipalities.

Sections ~~4-3~~ 4-4 through ~~4-5~~ 4-6 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.

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Sec. 4-67. - 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.:~~shall mean and include any place or establishment where:~~

- (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.

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

- ~~(1) A product or article, for a consideration, is sold, dispensed, served or provided, with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with, or drunk in connection or combination with an alcoholic beverage, for consumption on the premises.~~
- ~~(2) The term "alcoholic beverage" shall mean and include all beverages containing more than one percent of alcohol by weight.~~

(b) *Closing hours.*

- (1) All bottle clubs, as above defined, located in Nassau County, outside of municipalities, and not in the unincorporated area of Amelia Island and not within the State Road 200/A1A Access Management Overlay District shall remain closed from the hours of 2:00 a.m. to 7:00 a.m. on each day of the week except Sunday.
- (2) All bottle clubs, as defined above, 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.
- (3) 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, 1969.
- (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

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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. 4-78. - Sunday sales Definitions.

~~(a) *Short title.* This section shall be known as the "Sunday Hours of Sale of Alcoholic Beverages".~~

~~(b) *Purpose.* The purpose of this section is to regulate the hours of sale of alcoholic beverages on Sundays.~~

~~(ae) *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 more than one (1) percent of alcohol by weight.~~

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

~~*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.~~

~~*Resorts* shall mean businesses in the tourist overlay district in the unincorporated areas of Amelia Island that contribute monies pursuant to Ordinance No. 88-31 and have rooms for public lodging available on a daily or weekly basis and that provide services generally provided by a hotel.~~

~~*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, not~~

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designated by a resort, 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.

Vendor Establishments shall mean any place of business where alcoholic/intoxicating beverages are sold, or served for on or off premise consumption ~~or permitted to be served or consumed~~, and licensed under the direction of alcoholic beverages and tobacco.

(d) *Limit of sale.* Except as set forth in Section 4-3 of this ordinance, ~~No~~ alcoholic/intoxicating beverages or wine and beer, shall be sold served or permitted to be served between the hours of 2:00 a.m. and 2:00 p.m. on Sundays, ~~except for the following:~~

~~(1) Resort businesses, including restaurants within the resorts, in the tourist overlay district in the unincorporated areas of Amelia Island, licensed by the appropriate governmental agency, that contribute monies pursuant to Ordinance No. 88-31, the Tourist Development Tax Ordinance, may sell, serve, or permit to be served alcoholic/intoxicating beverages on resort owned or controlled property on Sunday commencing at 7:00 a.m.~~

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~~(2) Restaurants in the unincorporated areas of Amelia Island may sell, serve, or permit to be served alcoholic/intoxicating beverages on Sunday commencing at 12:00 noon. The ability to sell, serve or permit to be served alcoholic/intoxicating beverages shall only be in conjunction with meals.~~

~~(3) Restaurants, located in the unincorporated areas of Amelia Island serving alcoholic/intoxicating beverages, with meals, shall be exempt from any restrictions of Ordinance No. 71-16 and Ordinance No. 97-19, as amended, 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.~~

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

~~(cf) Violations and penalties.~~ Any person that shall fail to comply with or violate any of the provisions of this section, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) and/or imprisoned for a term not exceeding sixty (60) days.

Sec. 4-89. - 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.

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Sec. 4-910. - 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. 4-1011. - 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.

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- (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. 4-1142. - Penalty for violation of sections 4-89 through 4-1041.

It shall be unlawful for any person to violate or fail to comply with any provision of sections 4-8 ~~4-9~~ through 4-10 ~~4-11~~. 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 section 4-84-9 through 4-104-11 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 _____, 2017.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

DANIEL B. LEEPER

Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:

JOHN A. CRAWFORD

Its: Ex-Officio Clerk

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Approved as to form by the Nassau County Attorney:

MICHAEL S. MULLIN