

ORDINANCE NO. 2005 - 38

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ORDINANCE NO. 97-19, AS AMENDED, KNOWN AS THE NASSAU COUNTY ZONING CODE, WHICH REGULATES THE LOCATION OF CERTAIN LAND USES AND IMPOSES DISTANCE RESTRICTIONS OF CERTAIN LAND USES FROM OTHER LAND USES; SPECIFICALLY AMENDING ARTICLE 16 (COMMERCIAL, GENERAL: CG), ARTICLE 17 (COMMERCIAL, INTENSIVE: CI), AND ARTICLE 20 (INDUSTRIAL, WAREHOUSE: IW), TO ADDRESS SEXUALLY ORIENTED BUSINESSES AND ARTICLE 33 (DISTANCE RESTRICTIONS OF VENDORS OF ALCOHOLIC/INTOXICATING BEVERAGES FROM CHURCHES AND SCHOOLS), TO INCLUDE DISTANCE RESTRICTIONS FOR THE LOCATION OF SEXUALLY ORIENTED BUSINESSES FROM CHURCHES, SCHOOLS, RESIDENCES, AND FROM OTHER SEXUALLY ORIENTED BUSINESSES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners finds that sexually oriented businesses, as a category of establishments, require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses, as well as the citizens of Nassau County; and

WHEREAS, there is convincing evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and the downgrading of property values; and

WHEREAS, the Board of County Commissioners recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the U.S. Constitution or the Florida constitution, but to enact an Ordinance to further the content-neutral governmental interest of the County, to wit, controlling secondary effects of sexually oriented businesses; and

WHEREAS, sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses to prevent an unnecessary concentration of sexually oriented businesses in one area.

NOW, THEREFORE, BE IT ORDAINED THIS 23rd day of May, 2005, by the Board of County Commissioners of Nassau County, Florida that Ordinance 97-19 be amended as follows:

ARTICLE 16

COMMERCIAL, GENERAL: CG

INTENT: The provisions of this district are intended to designate areas for general commercial uses, which will meet the retail sales and service needs of Nassau County residents. This district is intended to encourage the concentration of general commercial uses and not the extension of strip commercial areas. The areas designated in this

district shall abut a roadway classified as a collector or higher facility on the adopted Functional Highway Classification Map of the adopted comprehensive plan.

Nodal development patterns at major intersections are preferred. An exception to this standard may occur in areas of commercial infill where such infill would create a more compact land use pattern.

Section 16.01. Permitted Uses and Structures.

- A. Uses permitted in the Commercial Neighborhood District.
- B. Retail outlets for the sale of food and pharmaceuticals, wearing apparel, toys, sundries and notions, books and stationery, leather goods and luggage, jewelry (including watch repair), art, cameras or photographic supplies (including camera repair), sporting goods, home furnishings and appliances (including repairs incidental to sales), office equipment or furniture, used merchandise, hardware and similar uses.
- C. Hobby and gift shops, delicatessens and bakeries (not wholesale bakery), florist shops, antique shops, and similar uses.
- D. Service establishments such as home equipment rentals, barber and beauty shops, shoe repair shops, reducing salons and gymnasiums, tailors and dressmakers, radio and television repair shops, travel agencies, laundry or dry cleaning establishments, pickup stations or package plants in completely enclosed buildings using nonflammable liquids such as perchloroethylene, with no odor, fumes or steam detectable to normal senses from off the premises, and other similar uses.
- D. Funeral homes.
- F. Outdoor fruit, vegetable, poultry or fish markets.
- G. Hotels and motels and commonly associated facilities.
- H. Indoor commercial recreation centers, video games, arcades, billiard room, bowling alleys, skating rinks and similar uses.
- I. Private clubs, fraternal organizations and lodge halls.
- J. Restaurants and commonly associated facilities.
- K. Gasoline dispensing facility containing not more than one (1) pump island with not more than four (4) gasoline and/or fuel pumps; provided no repairs or other automobile services are provided.
- L. Travel trailer parks and campgrounds, subject to site plan review in Section 26.17.

Section 16.02. Permitted Accessory Uses.

- A. See Article 28, Section 28.15.
- B. On the same premises and in connection with permitted principal uses and structures, a single-family dwelling unit, only for occupancy by an owner or employee thereof. Said single-family dwelling unit must be attached to the principal permitted structure.

Section 16.03. Conditional Uses.

- A. Drive-in restaurants and theaters.
- B. Auto service stations and repair garages.
- C. Auto sales lots.
- D. Child care centers, church or private schools, and uses as provided for in Article 28, Section 28.14.
- E. Establishments or facilities selling alcoholic beverage for on-site or off-site consumption.
- F. Any use listed as a permitted use in the Commercial Intensive District, Section [17.01], excluding Sexually Oriented Businesses.
- G. Plant nursery.

Section 16.04. Special Restrictions.

- A. 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.
- B. In areas designated as Conservation (Wetlands) on the Future Land Use Map [FLUM], only passive recreation and silviculture will be permitted.

Section 16.05. Minimum Lot Requirements.

- A. Minimum lot area: Twenty thousand (20,000) square feet.
- B. Minimum lot width: One hundred (100) feet.

Section 16.06. Minimum Yard Requirements.

- A. Front yard: Twenty-five (25) feet.
- B. Rear yard: Twenty (20) feet: Those structures constructed along the Atlantic Coastline shall utilize the adopted "Coastal Construction Control [Setback] Line", or a measurement of one hundred and fifty (150) feet, measured from the Mean High Water Line (MHL), whichever is the greater distance.

- C. Side yard: Twenty (20) feet except where the CG District abuts a residential district, the side yard shall be increased to thirty (30) feet. No side yard shall be required where two (2) or more commercial buildings adjoin side by side, however, in the case of a series of adjoining buildings or lots of single and/or separate ownership abutting and paralleling a public right-of-way, a passage of not less than thirty (30) feet in width shall be provided at grade level at the intervals of not more than four hundred (400) feet apart as may be required for public access.

Section 16.07. Building restrictions.

- A. Maximum building height: Forty (40) feet.
 - 1. Providing that for structures exceeding thirty-five (35) feet or three (3) stories in height shall increase the minimum side yard by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet.
 - 2. Also, those structures constructed along the Atlantic Coastline, or major water body, shall increase the minimum rear yard setback by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet, utilizing the "Coastal [Construction] Control [Setback] Line" as adopted, as the minimum rear yard, or one hundred and fifty (150) feet from the Mean High Water Line (MHL).
- B. Maximum lot coverage: Lot coverage by all buildings, including accessory buildings and structures shall not be more than fifty (50) percent of the lot.
- C. Landscaping: The minimum landscape area shall be not less than ten (10) percent of the total lot area and shall be in conformance with Article 28, Section 28.17.

ARTICLE 17

COMMERCIAL INTENSIVE: CI

INTENT: The provisions of this district are intended to designate areas for the orderly development of these commercial uses, which will provide local and regional commercial services and needs. Certain establishments, which will provide for the social, cultural and civic needs of County residents will also be encouraged to develop. Consumer related retail and service establishments, and wholesale, light manufacturing and warehouse uses, will be permitted to develop where appropriate. Areas in this district should have direct access to major thoroughfares suitable for efficiently carrying large volumes of traffic.

Regional commercial nodes will generally be located with convenient access to

transportation corridors. Commercial Intensive District uses may be developed only in a nodal pattern. Commercial intensive nodes must abut a roadway classified as a collector or higher on the adopted Functional Highway Classification Map of the adopted comprehensive plan.

Section 17.01. Permitted Uses and Structures.

- A. Retail outlets for the sale of general merchandise including new or used automobiles, trucks and tractors, motorcycles, mobile homes, boats, automotive vehicle parts (but not automobile wrecking or storage yards, junk yards, or scrap processing yards), heavy machinery and equipment, dairy supplies, feed, fertilizer, plant nursery (including outside display) or landscape contractor, lumber and building supplies, food and drugs, wearing apparel, toys, sundries and notions, books and stationery, leather goods and luggage, jewelry (including watch repair), art, cameras or photographic supplies (including camera repair), sporting goods, hobby shops and pet shops, musical instruments, florist or gift shop, delicatessen, bakery (but not wholesale bakery), home furnishing and appliances (including repair incidental to sales), office equipment or furniture, antiques, secondhand merchandise, hardware, and similar uses.
- B. Service establishments of all kinds including automobile service stations or truck stops, repair and service garages, motor vehicle body shops, rental of automotive vehicles, trailers, and trucks, auto laundries, small engine repair, restaurants (including drive-in restaurants), veterinarian or animal boarding kennels in soundproofed buildings, pest control, carpenter or cabinet shops, home equipment rental, ice delivery stations, marinas, radio or television broadcasting studios, offices, transmitter and antenna facilities, barber or beauty shops, shoe repair shops, interior decorator, reducing salons or gymnasiums, tailors or dressmakers, laundry or dry cleaning establishments, pick up stations or package plants in completely enclosed buildings using nonflammable liquids such as perchloroethylene and with no odor, fumes or steam detectable to normal senses from off the premises, funeral homes (including crematory), blueprinting, job printing (including newspaper), radio and television repair shops, travel agencies and similar uses. Motor vehicle body shops shall store wrecked automobiles in an area completely screened by a fence or other suitable visual barrier at least six (6) feet in height.
- C. Commercial, recreational and entertainment facilities such as carnivals or circuses, shooting galleries, video games, game rooms, arcades, billiard rooms, skating rinks, pony rides, go-kart tracks, athletic complexes, arenas, auditorium convention centers, dance halls and similar uses.
- D. Palmists, astrologists, psychics, clairvoyant, phrenologists and similar uses.
- E. Outdoor fruit, vegetable, poultry or fish markets.

- F. All types of professional and business offices.
- G. Establishments or facilities for the retail sale and service of all alcoholic beverages, either for on-premises or off-premises consumption, or both.
- H. Any type of wholesale, jobber or distributorship business where the total operation does not require more than four thousand (4,000) square feet of floor space; no vehicle is used in excess of one and one-half ton (1 ½) capacity; all merchandise is stored within an enclosed building; and no heavy machinery or manufacturing is located on the premises; mini-storage facility.
- I. Hotels and motels (including convention facilities).
- J. Building trades contractors not requiring outside storage; nor the use of any vehicle in excess of one and one-half (1 ½) ton capacity; nor any machinery, ditching machines, tractors, bulldozers, or other heavy construction equipment.
- K. Theaters (including drive-in or open air theaters).
- L. Express or parcel delivery offices, telephone exchanges, commercial parking lots, motor bus or other transportation terminals (but not truck terminal) and similar uses.
- M. All uses permitted in the Commercial General District, except nursing homes, travel trailer parks, camp grounds, and churches, which are conditional uses.
- N. Sexually Oriented Businesses, subject to the provisions of Ordinance 2005-10, and Article 33, Section 33.02.

Section 17.02. Special Restrictions.

- A. 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.
- B. In areas designated as Conservation (wetlands) on the Future Land Use Map [FLUM], only passive recreation and silviculture will be permitted.
- C. Mobile homes may be permitted for use as a parsonage for churches that have been granted a conditional use.

(Ordinance No. 2002-30, 5-20-02)

Section 17.03. Permitted Accessory Uses.

- A. See Article 28, Section 28.15.

- B. On the same premises and in connection with permitted principal uses and structures, a single-family dwelling unit only for occupancy by an owner or employee thereof. Said single-family dwelling unit must be attached to the principal permitted structure.

Section 17.04. Conditional Uses.

- A. Child care centers, church or private schools, uses as provided in Article 28, Section 28.14.
- B. Hospitals, sanitariums, nursing homes, home for the aged or orphans, and similar uses.
- C. Wholesale, warehouse, or storage uses.
- D. Building trades contractors with outside storage yards and heavy construction equipment.
- E. Boat yards, boat repair or construction facilities, dry docks, boat railways and similar uses.
- F. Light manufacturing, processing (including food processing but not slaughter houses), packaging or fabricating.
- G. Bulk storage yards including bulk storage of flammable liquids.
- H. Automobile wrecking or storage yards (but not scrap processing yards or junk yards) shall be completely screened by a fence or other suitable visual barrier at least six (6) feet in height.
- I. Commercial or noncommercial race tracks for animals or vehicles.
- J. Travel trailer parks and campgrounds, subject to site plan review by the Planning and Zoning Board as required in Article 28, Section 28.16.

Section 17.05. Minimum Lot Requirements.

- A. Minimum lot area: Twenty thousand (20,000) square feet.
- B. Minimum lot width: One hundred (100) feet.

Section 17.06. Minimum Yard Requirements.

- A. Front yard: Twenty-five (25) feet.
- B. Rear yard: Twenty (20) feet: Those structures constructed along the Atlantic Coastline shall utilize the adopted "Coastal Construction Control [Setback] Line", or a measurement of one hundred fifty (150) feet, measured from the Mean High Water Line (MHL), whichever is the greater distance.

- C. Side yard: Twenty (20) feet except where the CI District abuts a residential district, the side yard shall be increased to thirty (30) feet. No side yard shall be required where two (2) or more commercial buildings adjoin side by side, however, in the case of a series of adjoining buildings or lots of single and/or separate ownership abutting and paralleling a public right-of-way, a passage of not less than thirty (30) feet in width shall be provided at grade level at intervals of not more than four hundred (400) feet apart as may be required for public access.

Section 17.07. Building Restrictions.

- A. Maximum building height: Forty (40) feet:
 - 1. Providing that for structures exceeding thirty-five (35) feet or three (3) stories in height shall increase the minimum side yard by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet.
 - 2. Also, those structures constructed along the Atlantic Coastline, or major water body, shall increase the minimum rear yard setback by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet, utilizing the "Coastal Construction Control [Setback] Line" as adopted, as the minimum rear yard, or one hundred and fifty (150) feet from the Mean High Water Line (MHL).
- B. Maximum lot coverage:
 - 1. Lot coverage by all buildings and structures shall not be more than seventy (70) percent of the lot.
 - 2. Commercial intensive development should be encouraged only as nodal development with access located sufficient distance from intersections and interstate access ramps so as to minimize traffic impacts on these facilities.
- C. Landscaping: The minimum landscape area shall be not less than ten (10) percent of the total lot area and shall be in conformance with Article 28, Section 28.17.

ARTICLE 20

INDUSTRIAL, WAREHOUSE: IW

INTENT: The provisions of this district are intended to apply to an area developed for a variety of storage, warehousing and light industrial operations, or other use, which its location, trend of development of planned development designated in the Nassau County Comprehensive Plan, is appropriate for such areas. The provisions are intended

to permit the normal operation of such light industrial uses under such conditions that will not be harmful to surrounding uses.

Section 20.01. Permitted Uses and Structures.

- A. Wholesaling, warehousing, storage, or distribution establishments and similar uses.
- B. Light manufacturing, processing (including food processing, but not slaughter houses), packaging or fabricating.
- C. Printing, lithographing, publishing or similar establishments.
- D. Building trades contractors with outside storage yards and heavy construction equipment.
- E. Outdoor storage yards and lots including automobile wrecking or storage yards and junk yards (but not scrap processing yards). Automobile wrecking or storage yards and junk yards as defined herein shall be completely screened by a fence or other suitable visual barrier at least six (6) feet in height. Junk yards shall be located no closer than 150 feet to a public right-of-way.
- F. Service establishments catering to commerce and industry including linen supply, laundry, dry cleaning plants, freight movers, communications services, business machine services, restaurants (including drive-through restaurants), hiring and union halls, employment agencies, sign companies, automobile service stations and truck stops and similar uses.
- G. Vocational, technical, trade or industrial schools and similar uses.
- H. Medical establishments in connection with industrial activities.
- I. Bus, truck or other transportation terminals, commercial parking lots and garages, express offices and terminal facilities; telephone exchanges, repair or installation facilities; and similar uses.
- J. Radio or television broadcasting offices, studios, transmitters, or antennas.
- K. Sexually Oriented Businesses, subject to the provisions of Ordinance 2005-10, and Article 33, Section 33.02.

Section 20.02. Permitted Accessory Uses.

- A. See Article 28, Section 28.15.
- B. Residential facility (including not more than one (1) mobile home) located on the same premises as an industrial use for the use of watchmen or caretakers whose employment required residence on the premises.

Section 20.03. Conditional Uses.

- A. Any industrial or commercial use which is not otherwise permitted and is not listed as a conditional use in the Industrial Heavy District.
- B. Establishments for the retail or wholesale of all types of merchandise including new or used vehicles of all kinds, mobile homes, automotive parts and accessories, heavy machinery and equipment, boats, farm equipment, machinery, and supplies, lumber and building supplies, and similar uses.
- C. Establishments or facilities for the retail sale of beer or wine for either on-site or off-site consumption, or both.
- D. Any use which is potentially dangerous, noxious or offensive to neighboring uses or the public in general by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter or radiation.
- E. Bulk storage of petroleum products and other flammable liquids and acids.
- F. Business and professional offices.
- G. Cemeteries.

Section 20.04. Special Restrictions.

- A. 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.
- B. In areas designated as Conservation (wetlands) on the Future Land Use Map [FLUM], only passive recreation and silviculture will be permitted.

Section 20.05. Minimum Lot Requirements.

None.

Section 20.06. Minimum Yard Requirements.

- A. Front yard: Fifty (50) feet.
- B. Side yard: Twenty (20) feet.
- C. Rear yard: Twenty-five (25) feet: Those structures constructed along the Atlantic Coastline shall utilize the adopted "Coastal Construction Control [Setback] Line", or a measurement of one hundred fifty (150) feet, measured from the Mean High Water Line (MHL), whichever is the greater distance.

Section 20.07. Building Restrictions.

- A. Maximum Building height: Forty-five (45) feet.
 - 1. Providing that for structures exceeding thirty-five (35) feet or three (3) stories in height shall increase the minimum side yard by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet.
 - 2. Also, those structures constructed along the Atlantic Coastline, or major water body, shall increase the minimum rear yard setback by one (1) foot for every two (2) feet of building height exceeding thirty-five (35) feet, utilizing the "Coastal Construction Control [Setback] Line" as adopted, as the minimum rear yard, or one hundred fifty (150) feet from the Mean High Water Line (MHL).
- B. Maximum lot coverage: Fifty (50) percent: A minimum of ten (10) percent of the total lot area shall be landscaped and shall be in conformance with Article 28, Section 28.17.

ARTICLE 33

DISTANCE RESTRICTIONS OF VENDORS OF ALCOHOLIC/INTOXICATING BEVERAGES FROM CHURCHES AND SCHOOLS FOR CERTAIN LAND USES

Section 33.01 Vendors of Alcoholic/Intoxicating Beverages

- A. 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 within one thousand (1,000) feet in an airline distance measured from building to building at their closest points to any established school or church, except as may be provided in Ordinance 81-22, as amended; provided that nothing herein contained shall affect any such business, vending intoxicating beverages both for sale for consumption on or off the premises, which was actually being legally carried on within such distance of any established school or church at the time of the passage of ~~this ordinance~~ these regulations.
- B. Section 5.03, Conditional Use and Section 5.05, Variance shall not apply to this Article Section.

Section 33.02 Sexually Oriented Businesses

- A. It shall be unlawful to establish, operate, or cause to be operated a

sexually oriented business in Nassau County, unless said sexually oriented business is at least:

- 1.) Two thousand five hundred (2,500) feet from any parcel occupied by another sexually oriented business or a business licensed by the State of Florida to sell alcohol, at the premises, whether for on- or off-premise consumption; and
- 2.) Two thousand five hundred (2,500) feet from any parcel occupied by a church, house of worship, public or private elementary or secondary school, kindergarten, licensed day care center, or any residence.

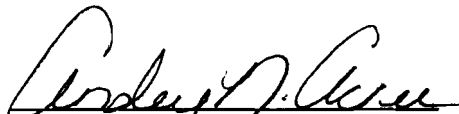
B. For the purpose of this Section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhands, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land uses(s) identified above.

C. Sexually oriented businesses are subject to additional requirements as provided by Ordinance 2005-10, an Ordinance establishing licensing requirements and regulations for sexually oriented businesses within Nassau County.

D. Section 5.03, Conditional Use and Section 5.05, Variance shall not apply to this Section.

This ordinance shall take effect upon receipt in the Secretary of State's Office.

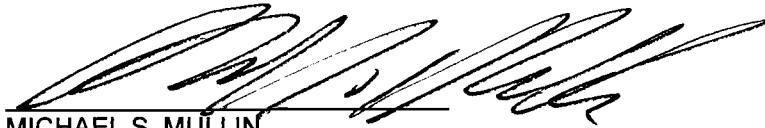
BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


ANSLEY ACREE
Its: Chairman

ATTEST:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN