

ORDINANCE NO. 2007 - 34

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ARTICLE 33, DISTANCE RESTRICTIONS FOR VENDORS OF ALCOHOLIC BEVERAGES OF LAND DEVELOPMENT CODE; PROVIDING FOR A REDUCTION IN THE DISTANCE SEPARATION BETWEEN SEXUALLY ORIENTED BUSINESSES AND BUSINESSES SELLING ALCOHOLIC/INTOXICATING BEVERAGES FROM 2,500 FEET TO 1,000 FEET; PROVIDING FOR MEASUREMENT CRITERIA; PROVIDING FOR RECIPROCITY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2005-38 and Ordinance 2006-76, amended Article 33 of the Nassau County Land Development Code, to provide that it shall be unlawful to establish, operate or cause to operate a sexually oriented business within twenty five hundred feet (2500') from a business licensed by the State of Florida to sell alcohol, whether for on- or off- premise consumption; and

WHEREAS, by operation of reciprocity Ordinance 2006-76 made it unlawful to establish businesses vending alcoholic beverages within 2,500' from a sexually oriented business; and

WHEREAS, the Board of County Commissioners of Nassau County, finds that it is in the best interest of the citizens to amend Section 33.01 (A) and Section 33.02 (A) (1) of Ordinance No. 97-19, the Nassau County Zoning Code, to reduce the twenty five hundred foot (2500') distance restriction of sexually oriented businesses from vendors of alcoholic/intoxicating beverages to one thousand feet (1000'); and

WHEREAS, due public notice of this action has been provided in accordance with Chapter 125, F.S.

CODING: Words stricken are deletions; words underlined are additions.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

A. This Ordinance is consistent with the Nassau County Comprehensive Plan, in particular Policies 1.09.01 and 1.03.01.

Section 2. AMENDMENT. Article 33, Distance Restrictions For Certain Land Uses is hereby amended to read as follows:

Section 33.01. Vendors of alcoholic/intoxicating beverages and bottle clubs.

(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 or for a bottle club, as defined per Ordinance 71-13, to allow the consumption 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 in Ordinance 81-22, as amended, Ordinance 2003-33, as amended (Amelia Island) and subsection D, below; ~~or within two thousand five hundred (2,500) feet from a sexually oriented business as defined and more particularly described in Section 33.02, Sexually oriented businesses;~~ provided that nothing herein contained shall affect any such business, vending 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 at the time of the passage of these regulations.

~~(B) Any bottle club operating within one (1) year of the date of the adoption of this amendment shall be grandfathered in subject to the provisions herein. To be grandfathered in the bottle club shall demonstrate by receipts and affidavit(s) that they have operated as a bottle club and those receipts and affidavit(s) shall be tendered to the County administrator who shall render a decision within fifteen (15) days after receipt. If there is a disagreement as to the County administrator's decision, it can be appealed to the Board of County Commissioners.~~

(B) The distance requirements described in this Section shall be applied reciprocally to churches and schools.

(C) Section 5.03, Conditional Use, and Section 5.05, Variance, shall not apply to this section.

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(D) Notwithstanding any other provision of the Nassau County Zoning Code or the County Code of Ordinances, the distance restriction, prohibiting the sale of alcohol within one thousand (1,000) feet in airline distance of a church, shall not apply to either (1) establishments selling alcohol or (2) churches permitted in a Commercial Intensive district. Only those establishments selling alcohol and churches, which are lawfully authorized under an uncontested permit at a particular site within a Commercial Intensive district at the time of the adoption of this ordinance may claim the one thousand (1,000) feet distance restriction.

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~~ One thousand five hundred ~~(2,500)~~ (1,000) 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 daycare center, ~~or any residence or another sexually oriented business.~~

(B) For the purpose of this section, measurements shall be made as follows:

(1) Measurements between a sexually oriented business and a vendor of alcoholic beverages for onsite or off-site consumption shall be made using the airline distance measured from building to building--at their closest points. In cases where the sexually oriented business and/or vendor of alcoholic beverages are located within a building containing multiple businesses/tenants, measurements shall be made in a straight line in all directions without regard to intervening structures or objects from the closest point of that portion of the multiple business structure used as a sexually oriented business to the closest point of that portion of the multiple business structure used as an establishment that sells alcoholic beverage for onsite or offsite consumption.

(2) Measurements between sexually oriented businesses and a church, house of worship, public or private elementary or secondary school, kindergarten, licensed daycare center, any

residence or another sexually oriented business 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 overhangs, 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 use(s) identified above-described in this subsection.

(3) The distance requirements described in this Section shall be applied reciprocally to businesses vending intoxicating beverages both for sale or for consumption on or off the premises; provided that nothing herein contained shall affect any such business within such distance of any established business, vending intoxicating beverages both for sale or for consumption on or off the premises at the time of the passage of this provision.

(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.

SECTION 3. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the Land Development Code (LDC) of Nassau County, Florida. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the LDC.

SECTION 4. SEVERABILITY

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

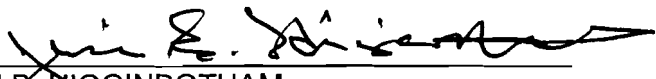
SECTION 5. EFFECTIVE DATE

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This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

ENACTED AND ADOPTED BY THE NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS, this 22nd day of October, 2007.

**BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA**



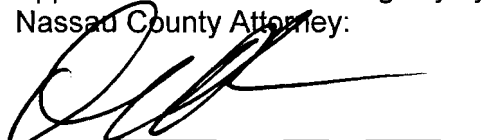
JIM B. HIGGINBOTHAM
Its: Chairman

Attest as to Chairman's
Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form and legality by the
Nassau County Attorney:



DAVID A. HALLMAN