

ORDINANCE 2009-15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING THE CODE OF ORDINANCES; AMENDING SECTION 4-4 OF THE CODE OF ORDINANCES BY REFERENCING ARTICLE 33 OF THE LAND DEVELOPMENT CODE FOR DISTANCE RESTRICTIONS OF VENDORS OF ALCOHOLIC BEVERAGES FROM CHURCHES AND SCHOOLS; AMENDING ARTICLE 32 OF THE LAND DEVELOPMENT CODE BY CHANGING THE DEFINITION OF A CHURCH; AMENDING SECTION 33.01 OF THE LAND DEVELOPMENT CODE BY CHANGING THE DISTANCE OF RESTAURANTS SERVING ALCOHOLIC BEVERAGES TO CHURCHES AND SCHOOLS WITHIN THE S.R. 200/A1A ACCESS MANAGEMENT OVERLAY DISTRICT; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the one thousand (1,000) feet airline distance between vendors selling alcohol/intoxicating beverages and churches was established by chapter 61-2535, Laws of Florida; and

WHEREAS, the Nassau county Board of County Commissioners has the authority to amend distance restrictions in accordance with Article VIII, Section One, of the Florida Constitution; and

WHEREAS, the increasing urban development of the A1A Overlay Corridor has resulted in the need for multiple uses within closer proximity while retaining minimum standards for separation of incompatible uses; and

WHEREAS, the Planning and Zoning Board conducted a public hearing on this ordinance on July 7, 2009 and unanimously voted to recommend approval; and

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

SECTION 1. FINDINGS

This ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan. The Comprehensive Plan is silent on the subject of alcoholic beverages.

SECTION 2. AMENDMENT

Sec. 4-4 of the Code of Ordinances, shall be amended to read as follows:
Distance restrictions of vendors of alcoholic beverages from churches and schools; exceptions.

~~It shall be unlawful for any person, firm, association or corporation to establish, maintain or carry on the business of vendor of 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; 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 as of November 15, 1971. See Section 33.01 of Appendix A, Land Development Code.~~

SECTION 3. AMENDMENT

Article 32 of Appendix A, the Land Development Code is hereby amended to read as follows:

Church: A building used for nonprofit purposes by a recognized or established religion as its place of worship. Such building may include, but is not limited to, a residential area for the pastor or minister of the sect, educational facilities, and other associated structures.

SECTION 4. AMENDMENT

Section 33.01 of Appendix A, the Land Development Code is hereby amended to read as follows:

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

- (A) Generally. 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 herein in Ordinance 81-22, as amended, Ordinance 2003-33, as amended (Amelia Island) and subsection D., below; 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 on or before November 15, 1971.~~
- (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.
- (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~~ on or before August 13, 2007, may claim the one thousand (1,000) feet distance restriction.
- (E) Resort businesses in the tourist overlay district in the unincorporated areas of Amelia Island, 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 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. 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. 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; 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.

(F) Notwithstanding any other provision of the Nassau County Land Development Code or the Code of County Ordinances, the distance restriction prohibiting the sale for consumption on premises of alcoholic beverages within one thousand (1,000) feet in airline distance of a church or school shall not apply to any lands lying in the State Road 200/A1A Access Management Overlay District regardless of its lot size. The exemption to the distance restriction shall be limited to restaurants, as that term is defined in Article 32, and the sale of alcohol shall not be permitted between the hours of 2:00 a.m. and 12:00 noon on Sundays.

SECTION 5. 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 6. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall not be included and incorporated into the Code of Ordinances and 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 Code.

SECTION 7. EFFECTIVE DATE

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

**ENACTED AND ADOPTED BY THE NASSAU COUNTY BOARD
OF COUNTY COMMISSIONERS, this 27th day of July, 2009**

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



BARRY V. HOLLOWAY
Its: Chairman

Attest as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

EBK 7/27/09

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



DAVID A. HALLMAN,
County Attorney