

ORDINANCE NO. 2017- 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 LAND DEVELOPMENT CODE, SPECIFICALLY ARTICLE 15, COMMERCIAL, NEIGHBORHOOD (CN), SPECIFICALLY SECTION 15.05, SPECIAL RESTRICTIONS; ARTICLE 16, COMMERCIAL, GENERAL (CG), SPECIFICALLY SECTION 16.04, SPECIAL RESTRICTIONS; ARTICLE 16-A, COMMERCIAL, GENERAL – AMERICAN BEACH (CG-AB), SPECIFICALLY SECTION 16.A-04, SPECIAL RESTRICTIONS; ARTICLE 17, COMMERCIAL INTENSIVE (CI), SPECIFICALLY SECTION 17.02, SPECIAL RESTRICTIONS; ARTICLE 18, COMMERCIAL, HIGHWAY AND TOURIST (CHT), SPECIFICALLY SECTION 18.04, SPECIAL RESTRICTIONS; ARTICLE 20, INDUSTRIAL, WAREHOUSE (IW), SPECIFICALLY SECTION 20.04, SPECIAL RESTRICTIONS; ARTICLE 21, INDUSTRIAL, HEAVY (IH), SPECIFICALLY SECTION 21.04, SPECIAL RESTRICTIONS; ARTICLE 26, COMMERCIAL, JUDICIAL (CJ), SPECIFICALLY SECTION 26.01, COMMERCIAL, JUDICIAL, PERMITTED USES, REGARDING DISTRICT RESTRICTIONS APPLICABLE FROM CHURCHES AND SCHOOLS FOR THE SALE OF ALCOHOLIC OR INTOXICATING BEVERAGES; THE AMENDMENTS REMOVE A SPECIAL RESTRICTION FROM THE ABOVE REFERENCED ARTICLES AND SECTIONS; AMENDING ARTICLE 33, DISTANCE RESTRICTIONS FOR CERTAIN LAND USES, AMENDING SECTION 33.01 AND RESCINDING SECTION 33.01 (A-F); AMENDING SECTION 33.02, SEXUALLY ORIENTED BUSINESSES, SPECIFICALLY AMENDING SECTION 33.02(A)(1); RESCINDING SECTION 33.02(B)(3); PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, Florida, finds that the Sunday Hours of Sale of Alcoholic/Intoxicating Beverages should be uniform for the unincorporated areas of Amelia Island and the SR200/A1A Access Management Overlay District; and

WHEREAS, the Board of County Commissioners finds that amending the hours of Sunday sale of alcoholic/intoxicating beverages within the unincorporated area of Amelia Island and the State Road 200/A1A Access Management Overlay District is not detrimental to the health, safety and general welfare of the citizens of Nassau County, Florida; and

WHEREAS, the Board of County Commissioners finds that it is in the best interest of the citizens of Nassau County to consolidate, into one ordinance, the control of the sale of alcoholic/intoxicating beverages; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida, has found it necessary to amend Articles 15, 16, 16-A, 17, 18, 20, 21, and 26 of the Nassau County Land Development Code in order to remove the distance restriction in these zoning districts for the sale of alcoholic or intoxicating beverages to any established school or church in the referenced zoning districts and indicate that the special restriction would be set forth in Section 4-3 of Ordinance No. 2017- 37; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida conducted a public hearing on the proposed ordinance on November 27, 2017.

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida, that Articles 15, 16, 16-A, 17, 18, 20, 21, 26 and 33 of the Nassau County Land Development Code shall be amended as set forth below:

COMMERCIAL, NEIGHBORHOOD (CN)

15.05. - Special restrictions.

~~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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3, of Ordinance No. 2017- 37~~

COMMERCIAL, GENERAL (CG)

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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017- 37~~

COMMERCIAL, GENERAL – AMERICAN BEACH (CG-AB)

16-A.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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017-37.~~

COMMERCIAL INTENSIVE (CI)

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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017-37.~~

(B) In areas designated as conservation (wetlands) on the future land use map, only passive recreation and silviculture will be permitted.

~~(C) 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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017-37.~~

(D) Distance Restrictions. Medical Marijuana Treatment Center Dispensing Facilities shall not be located within 500 feet (500') in airline distance of the real property that comprises a public or private elementary school, middle school, or secondary school.

COMMERCIAL, HIGHWAY AND TOURIST (CHT)

Section 18.04. - 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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017-37.~~

INDUSTRIAL, WAREHOUSE (IW)

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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017- 37.~~

INDUSTRIAL, HEAVY

Section 21.04. - 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. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017- 37.~~

COMMERCIAL, JUDICIAL

Section 26.01. - Commercial, Judicial: CJ.

Intent: This district designates the commercial and office uses which are compatible with the area around the Nassau County Judicial Complex. The district encourages general commercial uses in conjunction with compatible similar uses.

C. *CJ, special restrictions.*

1. ~~Businesses selling 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. Similarly, a school or church 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 business selling alcoholic or intoxicating beverages. The distance restriction applicable from churches and schools for the sale of alcoholic or intoxicating beverages is set forth in Section 4-3 of Ordinance No. 2017- 37.~~
2. Distance Restrictions. Medical Marijuana Treatment Center Dispensing Facilities shall not be located within 500 feet (500') in airline distance of the real property that comprises a public or private elementary school, middle school, or secondary school.

ARTICLE 33, DISTANCE RESTRICTIONS FOR CERTAIN LAND USES

See Section 4-3 of Ordinance No. 2017- 37

Section 33.01, Paragraphs A through F, of the Land Development Code, is hereby rescinded:

~~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 No. 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; 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 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 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 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 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) One thousand (1,000) feet from any parcel occupied by a business licensed by the State of Florida to sell alcohol or intoxicating beverages, ~~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, 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 on-site 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 on-site of [or] off-site 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 associated with any of the land use(s) 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 No. 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.

SEVERABILITY

Should any section, clause or provision of this ordinance, or any amendment hereto, be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

EFFECTIVE DATE

This ordinance shall become effective upon its being filed with the office of the Department of State.

DULY ADOPTED this 27th day of November, 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

MES
11-29-17

Approved as to form by the Nassau County Attorney:



MICHAEL S. MULLIN