

ORDINANCE NO. 17-__

AN ORDINANCE PERTAINING TO THE REGULATION, SALE, CONSUMING, OR SERVING OF BEER, WINE, OR OTHER ALCOHOLIC OR INTOXICATING BEVERAGES IN WASHINGTON COUNTY, FLORIDA; REGULATING THE HOURS THAT ALCOHOLIC BEVERAGES MAY BE SOLD, CONSUMED, SERVED, OR PERMITTED TO BE SERVED OR CONSUMED; REGULATING THE MINIMUM DISTANCE FROM A CHURCH THAT ALCOHOLIC BEVERAGES MAY BE SOLD FOR CONSUMPTION ON THE PREMISES; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HEREWITH, INCLUDING ORDINANCE(S) DATED APRIL 9, 1973, ORDINANCE 83-1, ORDINANCE 93-4, AND ORDINANCE 96-1; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapters 562, 563, 564, 565, 567, and 568, Florida Statutes are referred to as the “Florida Beverage Law”; and

WHEREAS, Florida Statute 125.01(1)(o) empowers a County governing body to “[e]stablish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the County pursuant to general law”; and

WHEREAS, Florida Statute 562.45(2)(a) allows a County of the State to enact ordinances regulating the hours of business for persons and entities holding a State beverage license within the unincorporated areas of the County; and

WHEREAS, Florida Statute 562.14 states in relevant part, “[e]xcept as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license...between the hours of midnight and 7 a.m. of the following day”; and

WHEREAS, Florida Statute 562.45(2)(a) provides certain restrictions with respect to allowing a location for on-premises consumption of alcoholic beverages within 500 feet of real property that comprises a public or private school; and

WHEREAS, the Board of County Commissioners for Washington County recognizes that the ongoing recession and the condition of the economy challenges local businesses to seek new and better ways to serve the needs of their patrons; and

WHEREAS, the Board of County Commissioners for Washington County understands that the continued success of businesses focused on food services and sales is an important component for the success in the County's goal to continue to provide venues for socializing and entertainment; and

WHEREAS, the Board of County Commissioners for Washington County is attempting to balance the goals of growth and job creation with the historical deference provided to churches, private residences, and other individual and community based needs, by implementing the following rules and regulations; and

WHEREAS, under state laws regulating the sale of beer, wine, or other alcoholic or intoxicating beverages, the Board of County Commissioners for Washington County is authorized to establish the location and hours of operation for alcohol sales in the unincorporated areas of the County; and

WHEREAS, the Board of County Commissioners of Washington County wishes to provide less restrictive locational and time criteria for businesses operating primarily as food sales/service establishments as fully set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Florida, as follows:

Section 1. Findings of Fact: The above recitals are incorporated by reference into the body of this Ordinance, and such recitals are adopted as Findings of Fact.

Section 2. Extension of Hours of Sale: All Washington County Ordinance(s) in conflict herewith, including Ordinance(s) 83-1 and 93-4, are amended, in order to read as follows:

Hours of Sale, or Consumption; Generally.

“No beer, wine, or other alcoholic or intoxicating beverages may be sold, consumed, or served, or permitted to be served or consumed in any place licensed under the Division of Alcoholic Beverages and Tobacco, or any other

public place in the unincorporated area of Washington County, Florida, daily between the hours of 12:00 midnight and 7:00 a.m.”

Section 3. Reduction of Distance Regarding Licensed Premises

From Churches: All Washington County Ordinance(s) in conflict herewith, including an Ordinance dated April 9, 1973, Ordinance 83-1, and Ordinance 96-1, are amended, in order to read as follows:

“General Requirement: The sale of beer, wine, or other alcoholic or intoxicating beverages, for consumption on the premises, is permitted to be sold by a vendor licensed by the Division of Alcoholic Beverages and Tobacco in an area designated for commercial land use and as specified in the Washington County Land Development Code except as provided herein:

Distance of licensed premises from churches.

No beer, wine, or other alcoholic or intoxicating beverages may be sold for consumption on the premises within 500 feet of any church, which distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the front door of the place of business to the front door of the church.

The aforementioned distance requirement regarding the distance from churches shall not apply to restaurants. “Restaurant” shall be defined, for the purpose of this section, as an establishment that meets the requirements of Florida Statute 509.013 and, to the extent where more restrictive than Florida 509.013, where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises; an establishment engaged primarily in the service of food and nonalcoholic beverages whose revenues derived from the sale of prepared food exceed 50% of its revenues. A restaurant must have full kitchen facilities and food preparation staff capable of preparing and serving full course meals during all hours of operation. A restaurant must have the appropriate license issued by the state as well as all county permits required by law, and must meet all local zoning requirements for a restaurant. The term may include café’s, coffee shops, donut shops, delicatessens, cafeterias, and other establishments of a similar nature.

Section 4. Reduction of Distance Regarding Licensed Premises

From Residences: All Washington County Ordinance(s) in conflict herewith,

including an Ordinance dated April 9, 1973, Ordinance 83-1, and Ordinance 96-1, are amended, in order to read as follows:

General Requirement: The sale of beer, wine or other alcoholic or intoxicating beverages, for consumption on the premises is permitted to be sold by a vendor licensed by the Division of Alcoholic Beverages and Tobacco in an area designated for commercial land use and as specified in the Washington County Land Development Code except as provided herein:

Distance of licensed premises from residences.

No beer, wine or other alcoholic or intoxicating beverages may be sold for consumption on the premises within 500 feet of any residence, which distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the front door of the place of business to the front door of the residence.

The aforementioned distance requirement regarding the distance from residences shall not apply to restaurants. "Restaurant" shall be defined, for the purpose of this section, as an establishment that meets the requirements of Florida Statute 509.013 and, to the extent where more restrictive than Florida 509.013, where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises; an establishment engaged primarily in the service of food and nonalcoholic beverages whose revenues derived from the sale of prepared food exceed 50% of its revenues. A restaurant must have full kitchen facilities and food preparation staff capable of preparing and serving full course meals during all hours of operation. A restaurant must have the appropriate license issued by the state as well as all county permits required by law, and must meet all local zoning requirements for a restaurant. The term may include café's, coffee shops, donut shops, delicatessens, cafeterias, and other establishments of a similar nature.

Section 5. Established Business: The restrictions contained in Section 3 and 4 herein, with respect to distances, shall not be construed or held to affect the rights of any existing established business, or its successors or assigns, with respect to the location of the business, provided, however, that no established business may expand its premises so as to decrease the distance to such church or residence below five hundred (500) feet, or the distance to such church or residence as of the effective date, whichever is lesser.

Whenever a business has been lawfully established and thereafter a church or residence is established within a distance otherwise prohibited by this section, the establishment of the church or residence shall not cause for the revocation of the certificate of use or otherwise prevent the continuation of business.

Section 6. Application Requirements: Applicants for certificate of use and licenses from the State of Florida who are required to show that the location of the proposed business is in conformity with the Washington County Land Development Code Article and other applicable regulations of the County shall furnish a survey, made by a registered surveyor, showing that the location of the premises of the applicant conforms to this section.

No certificate of use or occupancy, building, plumbing, electrical, or other permits including, but not limited to, health permits, shall be issued to any person, firm, association, or corporation conducting and/or operating a business for the sale of alcoholic beverages at a location prohibited pursuant to this Ordinance.

Section 7. Bottle Clubs: Nothing herein shall affect “Bottle Clubs” as set forth in County Ordinance 90-6 and County Ordinance 91-1, or any other Ordinance or Resolution setting forth parameters for “Bottle Clubs”.

Section 8. Schools: Nothing herein shall amend, alter, affect, or reduce Florida Statute 562.45(2)(a) as it pertains to the sale of alcoholic or intoxicating beverages in relational distance to public or private schools.

Section 9. Ordinance 2006-14: Ordinance 2006-14, which makes it unlawful for any person to “publicly consume any alcoholic beverage within a radius of one hundred feet (100’) of any package store, convenience store, food store, or any other place of business which sells alcoholic beverages”, unless being consumed within the privacy of any home, is hereby affirmed and shall remain in full force and effect insomuch as it applies to businesses which sell alcohol for non-on-premises consumption.

Section 10. Severability: If any section, subsection, clause, or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 11. Repealing of Conflicts: All Ordinances and Resolutions or parts of Ordinances or Resolutions, and all sections and parts of sections in conflict herewith shall be, and hereby are, repealed.

Section 12. Codification: Codification of this Ordinance in the County's Code of Ordinances is hereby authorized and directed.

Section 13. Effective Date: This Ordinance shall take effect immediately upon adoption.

Section 14. Violation: Any person convicted of any provision of this Ordinance shall be punished by a fine not to exceed five hundred (\$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 for each such offense.

The Board of County Commissioners for Washington County may also institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this Ordinance, or of any order or regulation made in connection with its administration or enforcement, and the court shall adjudge to the plaintiff such relief by way of injunction or otherwise, to include mandatory injunction, as may be proper under all of the facts and circumstances of the case in order to fully effectuate the Ordinance and regulations made pursuant thereto.

ORDAINED upon due motion, second, after discussion, by not less than a majority vote of the Board this ____ day of _____, 2017 with the members of the Board voting as follows:

YEAS: _____

NAYS: _____

ABSTAIN: _____

BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, FLORIDA

BY: _____
Charles Kent, Chairman

ATTEST: _____
Clerk of Court