

ORDINANCE 18-07

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS ("LDRS"); AMENDING SUBPART B OF THE CITY OF ALACHUA CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS; AMENDING SECTION 4.6, SPECIAL EVENTS, TO PROVIDE FOR THE REGULATION OF SPECIAL EVENTS WHERE ALCOHOLIC BEVERAGES ARE SOLD OR CONSUMED; TO PROVIDE AN EXEMPTION FROM THE STANDARDS OF SECTION 4.6 FOR AGRITOURISM, AS SET FORTH IN CHAPTER 570.85 – 570.89, FLORIDA STATUTES, AS AMENDED; AND TO CLARIFY THE STANDARDS OF AN APPLICATION FOR A SPECIAL EVENT PERMIT AND THE CONDITIONS WHICH MAY BE IMPOSED UPON A SPECIAL EVENT PERMIT; PROVIDING A REPEALING CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City of Alachua (the "City") desires to encourage economic development, economic growth, and to improve the quality of life for the residents and visitors of the City; and,

WHEREAS, the City establishes regulations for special events in Subpart B of the City Code of Ordinances, Land Development Regulations ("LDRs"), Article 4, Section 4.6; and,

WHEREAS, the City proposes to amend Subpart A of the City Code of Ordinances, General Ordinances, Chapter 4, Alcoholic Beverages, to allow for certain special events occurring in designated municipal parks, recreation areas, or within public streets, thoroughfares, sidewalks, and public parking facilities; and,

WHEREAS, the regulations established for special events in Subpart B of the City Code of Ordinances, LDRs, Article 4, Section 4.6, presently do not provide for the regulation of alcoholic beverages as part of a special event; and,

WHEREAS, the City finds it to be within its police powers to establish regulations for alcoholic beverages when sold or consumed as part of a special event to ensure the protection of the health, safety, and welfare of the general public; and,

WHEREAS, the Florida Legislature amended Chapter 570.85 – 570.89, Florida Statutes, in 2016 to promote agritourism as a way to support bona fide agricultural production by providing a secondary stream of revenue and by educating the general public about the agricultural industry, and to eliminate the duplication of regulatory authority over agritourism as expressed within Chapter 570.85 – 570.89, Florida Statutes; and,

WHEREAS, the City has found the non-substantive revisions to Subpart B of the City Code of Ordinances, LDRs, Article 4, Section 4.6, are appropriate to clarify existing regulations; and,

WHEREAS, in order to effectuate such revisions to Subpart B of the City Code of Ordinances, LDRs, Article 4, Section 4.6, a LDR text amendment is required (the "Amendment"); and,

WHEREAS, the City advertised a public hearing to be held before the Planning and Zoning Board, sitting as the Local Planning Agency ("LPA"), on December 28, 2017; and

WHEREAS, the LPA conducted a quasi-judicial public hearing on the proposed Amendment on January 9, 2018, and the LPA reviewed and considered all comments received during the public hearing concerning the proposed Amendment and made its recommendation to the City Commission; and

WHEREAS, the City advertised public hearings to be held before the City Commission on January 11, 2018, and on February 1, 2018; and

WHEREAS, the City Commission conducted quasi-judicial public hearings on the proposed Amendment on January 22, 2018, and February 12, 2018, and provided for public participation at both public hearings; and

WHEREAS, the City Commission has determined and found the Amendment to be consistent with the City's Comprehensive Plan and City's LDRs; and

WHEREAS, for reasons set forth in this ordinance that is hereby adopted and incorporated as findings of fact, that the Alachua City Commission finds and declares that the enactment of this Amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare;

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA:

Section 1. Interpretation of Recitals

The above recitals are true and correct and incorporated in this ordinance.

Section 2. Findings of Fact and Conclusions of Law

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; and the City's Comprehensive Plan.

Section 3. Amendment to the Land Development Regulations

The proposed Amendment to the City Land Development Regulations are attached as Exhibit "A" and are hereby incorporated herein by reference.

Section 4. Codification of and Correction of Scrivener's Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 7. Effective Date

This ordinance shall take effect immediately upon its adoption by the City Commission and the signature of the Mayor.

Passed on First Reading the 22nd day of January 2018.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 12th day of February 2018.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**

Gib Coerper, Mayor
SEAL

ATTEST:

APPROVED AS TO FORM

Traci L. Gresham, City Manager/Clerk

Marian B. Rush, City Attorney

EXHIBIT “A”

Section 4.6 of the City’s LDRs is amended as follows (text that is underlined is to be added and text that is shown as ~~strikethrough~~ is to be removed). Except as amended herein, the remainder of Section 4.6 remains in full force and effect:

Sec. 4.6. - Special events.

4.6.1. *Applicability.*

- (A) *Generally.* The procedures and standards of this subsection shall apply to all special events (including but not limited to events serving alcohol [unless the event is exempt from obtaining a special event permit pursuant to Section 4.6.2 of these LDRs], cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping) held within the City, unless exempted pursuant to Subsection 4.6.2 of this section, Exemptions.
- (B) *Special event permit required.* All special events subject to this subsection shall have a special event permit application reviewed and approved or approved with conditions by the LDR Administrator pursuant to Section 2.4.13, Special event permit, prior to conducting the special event.

4.6.2. *Exemptions.* The following events or activities are exempt from the standards of this subsection (i.e., may occur without a special event permit); such activities are subject to all other applicable procedures and standards of these LDRs:

- (A) *On grounds of private residence.* Special events or activities occurring within, or on the grounds of, a private residence or on the common areas of a multifamily residential development.
- (B) *Event or activity at site intended for such event or activity.* Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls, event venues, or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at religious institutions.
- (C) *Agritourism.* Any activities which are consistent with the definition of agritourism and the applicable provisions pertaining to agritourism as set forth in Chapter 570.85 – 570.89, Florida Statutes, as amended.

4.6.3. *Standards.* An application for a special event permit shall comply with the following standards:

- (A) *Application contains intentionally false or material misleading information.* The application shall not ~~Not~~ contain intentionally false or materially misleading information.
- (B) *Unreasonable risk.* The special event shall not ~~Not~~ create an unreasonable risk of significant:
 - (1) ~~Damage to property.~~ Damage to public or private property, beyond normal wear and tear-;
 - (2) ~~Injury to persons.~~ Injury to persons-;
 - (3) ~~Disturbances or nuisances.~~ Public or private disturbances or nuisances-;

- (4) ~~Impediments or distractions, congestions or pedestrian travel.~~ Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel-;
 - (5) ~~Additional public safety demands.~~ Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance or other public service demands-; and
 - (6) ~~Other adverse effects.~~ Other adverse effects upon the health, safety or welfare.
- (C) ~~Location cannot be accommodated.~~ The special event shall not ~~Not~~ be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event.
- (D) ~~Time permitted or reserved for other activities.~~ The special event shall be ~~Be~~ at a time and location that has already been permitted or reserved for other activities:
- (E) Alcoholic beverages within City right-of-way and other City property. The sale or consumption of alcoholic beverages may be permitted for a special event occurring wholly or partially within a City right-of-way, municipally owned, leased, operated, or controlled property, or area, or in any municipal park or recreation area as set forth in Chapter 4, Section 4-4, of the City of Alachua Code of Ordinances.
- (F) Requirements for special events with alcoholic beverages. Special events which include the sale or consumption of alcoholic beverages shall be subject to the following requirements:
- (1) The special event permit application shall be reviewed by the appropriate City departments to ensure protection of the health, safety or welfare of the general public. Particular attention will be given the impacts created by the special event, including but not limited to, impacts upon traffic flow and control, vehicular and pedestrian safety, noise, lighting, and the effect that the special event will have on surrounding uses, particularly where the adjoining or nearby use is residential.
 - (2) The sale or consumption of alcoholic beverages shall occur only between the hours set forth in Chapter 4, Section 4-2.(c) of the City of Alachua Code of Ordinances. As a condition of a special event permit, the LDR Administrator may further restrict the times at which alcoholic beverages may be sold or consumed during a special event.
 - (3) The applicant shall not permit alcoholic beverages to be brought into or consumed inside the permitted special event area, nor shall the applicant permit alcoholic beverages sold or dispensed inside the special event area to be taken out of, or consumed outside of, the special event area.
 - (4) The LDR Administrator may impose additional conditions upon a special event which includes for the sale or consumption of alcoholic beverages as deemed necessary to protect the health, safety or welfare of the general public, as further set forth in Section 4.6.4, Conditions. Such conditions may include, but are not limited to, specifying and requiring the sale and consumption of alcohol to occur within designated areas as prescribed by the City, in its sole discretion, and/or requiring the sale or consumption of alcoholic beverages to occur within fenced or barricaded areas with limited points of entry.

4.6.4. *Conditions.* In approving a special event, the LDR Administrator is authorized to impose such conditions upon the ~~premises benefited by the permit where the special event is to be held and upon the operations of the special event~~ as may be necessary to reduce or minimize any potential adverse impacts upon ~~other property in the surrounding area~~ and to protect the health, safety, and welfare of the general public, as long as the condition relates to a situation caused or created ~~or aggravated~~ by the proposed special event. The LDR Administrator is authorized, where appropriate, to require:

- (A) ~~Provision of temporary parking.~~ Provision of temporary parking facilities, including vehicular access and egress.
- (B) ~~Control of nuisance factors.~~ Control of nuisance factors, such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases and heat.
- (C) ~~Regulation of temporary buildings.~~ Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- (D) ~~Provision of sanitary and medical facilities.~~ Provision of sanitary and medical facilities.
- (E) ~~Provision of solid waste collection and disposal.~~ Provision of solid waste collection and disposal.
- (F) ~~Provision of security and safety measures.~~ Provision of security and safety measures, including but not limited to the provision of extra duty services by local law enforcement.
- (G) ~~Use of an alternative location or date.~~ Use of an alternative location or date for the proposed special event.
- (H) ~~Modification or elimination of certain proposed activities.~~ Modification or elimination of certain proposed activities.
- (I) ~~Operational standards.~~ Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this subsection.
- (J) ~~Performance or financial guarantee.~~ Submission of a performance bond or other financial guarantee to ensure that any temporary facilities or structures used for the special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

4.6.5. *Duration of permit.* A special event permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.

ORDINANCE 18-06

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S CODE OF ORDINANCES; AMENDING SUBPART A, CHAPTER 4, ALCOHOLIC BEVERAGES, OF THE CITY OF ALACHUA CODE OF ORDINANCES; TO PROVIDE FOR THE REGULATION OF ALCOHOLIC BEVERAGES WHEN SOLD, SERVED, DELIVERED, OR CONSUMED DURING TEMPORARY EVENTS AND SPECIAL EVENTS; PERMITTING ALCOHOLIC BEVERAGES TO BE SOLD, SERVED, DELIVERED, OR CONSUMED AT DESIGNATED MUNICIPALLY-OWNED PARKS, RECREATION AREAS, AND PROPERTIES AND WITHIN RIGHT-OF-WAYS DURING TEMPORARY EVENTS AND SPECIAL EVENTS; PROVIDING A REPEALING CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City of Alachua (the "City") desires to encourage economic development, economic growth, and to improve the quality of life for the residents and visitors of the City; and,

WHEREAS, the Subpart A, Chapter 4, of the City Code of Ordinances establishes regulations pertaining to alcoholic beverages; and,

WHEREAS, such regulations pertain to the hours of sale, licensure, and the possession and consumption of alcoholic beverages on public property and within right-of-ways; and,

WHEREAS, the City proposes to amend Subpart B of the City Code of Ordinances, Land Development Regulations ("LDRs"), Section 4.6, Special Events, to provide for the regulation of alcoholic beverages as part of a special event; and,

WHEREAS, the regulations established in Subpart A of the City Code of Ordinances, Chapter 4, Alcoholic Beverages, presently do not address alcoholic beverages as part of a temporary events or special events; and,

WHEREAS, the City finds it to be within its police powers to establish regulations for alcoholic beverages when sold, served, delivered, or consumed during temporary events and special events to ensure the protection of the health, safety, and welfare of the general public; and,

WHEREAS, in order to ensure the regulations established in Subpart A of the City Code of Ordinances, Chapter 4, Alcoholic Beverages, are compatible with the proposed amendments to Subpart B of the City Code of Ordinances, LDRs, Section 4.6, Special Events, the City proposes to amend Subpart A of the City Code of Ordinances, Chapter 4, Alcoholic Beverages (the "Amendment"); and,

WHEREAS, the City advertised public hearings to be held before the City Commission on January 11, 2018, and on February 1, 2018; and

WHEREAS, the City Commission conducted quasi-judicial public hearings on the proposed Amendment on January 22, 2018, and February 12, 2018, and provided for public participation at both public hearings; and

WHEREAS, the City Commission has determined and found the Amendment to be consistent with the City's Comprehensive Plan and City's LDRs; and

WHEREAS, for reasons set forth in this ordinance that is hereby adopted and incorporated as findings of fact, that the Alachua City Commission finds and declares that the enactment of this Amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare;

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA:

Section 1. Interpretation of Recitals

The above recitals are true and correct and incorporated in this ordinance.

Section 2. Findings of Fact and Conclusions of Law

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; and the City's Comprehensive Plan.

Section 3. Amendment to the City Code of Ordinances

The proposed Amendment to the City Code of Ordinances are attached as Exhibit "A" and are hereby incorporated herein by reference.

Section 4. Codification of and Correction of Scrivener's Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 7. Effective Date

This ordinance shall take effect immediately upon its adoption by the City Commission and the signature of the Mayor.

Passed on First Reading the 22nd day of January 2018.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 12th day of February 2018.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**

Gib Coerper, Mayor
SEAL

ATTEST:

APPROVED AS TO FORM

Traci L. Gresham, City Manager/Clerk

Marian B. Rush, City Attorney

EXHIBIT “A”

Chapter 4 of the City Code of Ordinances is amended as follows (text that is underlined is to be added and text that is shown as ~~strike through~~ is to be removed). Except as amended herein, the remainder of Chapter 4 remains in full force and effect:

Chapter 4 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

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State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166; alcoholic beverages, F.S. chs. 561—568; general authority relative to alcohol, F.S. §§ 562.14(1), 562.45(2).

Sec. 4-1. - Definitions.

The definitions contained in the beverage law of the State are the same definitions of terms as are used in this chapter.

Sec. 4-2. - Hours of sale.

- (a) *Authority.* Pursuant to F.S. § 562.14(1), the City Commission, in this chapter establishes and prescribes the only hours during which alcoholic beverages may be purchased, sold, served, or consumed, or permitted to be served or consumed on premises located within the incorporated area of the City of Alachua and holding an alcoholic beverage license under the laws of Florida.
- (b) *Permitted hours of sale for off-premises consumption.*
 - (1) Hours of sale for off-premises consumption of all alcoholic beverages shall only be permitted on Monday through Saturday between hours of 7:00 a.m. and 2:00 a.m. on the following day.
 - (2) Hours of sale for off-premises consumption of all alcoholic beverages shall only be permitted on Sunday between the hours of midnight and 2:00 a.m. and 7:00 a.m. and 11:00 p.m.
- (c) *Prohibited hours of sale for on-premise consumption at business or club.* It shall be unlawful for any person to sell to or to consume or to permit the consumption of any alcoholic beverage on the premises of any business or club open to the public, which business or club is licensed by the State and caters to or allows the on premise consumption of alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. on Tuesday, Wednesday, Thursday, Friday, Saturday or Sunday and between the hours of 11:00 p.m. on Sunday and 7:00 a.m. on the following Monday. However, when December 31 occurs on a Sunday, such sale, consumption or service of alcoholic beverages shall be permitted to continue from 11:00 p.m. of that Sunday until 2:00 a.m. immediately following on Monday. All time is Eastern Standard Time or Eastern Daylight Saving Time, whichever is in effect. Within this section, the term "premises" shall mean the physical facilities, improvements, or buildings where the business or club is located and conducted, and any parking lot or other real property available to the business or club. As used herein, the terms "business" and "club" shall mean any place which is open to the public or to which the public is invited.

Sec. 4-3. - Sales, new licenses for sale, prohibited near religious institution.

It is unlawful for any sale of alcoholic beverage to take place or occur, whether for consumption on or off a premises, within 450 feet of a religious institution, as defined by the City's Land Development Regulations unless authorized by a Special Event Permit issued pursuant to Section 4.6, Special Events, of the Land Development Regulations (LDRs), or unless authorized for a temporary event where the sale of alcoholic beverages will not exceed a period of 3 days for a single event. Such distance shall be measured from the center of the main entrance of the licensed premises and follow the most direct public route of pedestrian travel to the center of the main entrance of the religious institution. However, this section shall not apply to those sales of beer and malt beverages for consumption off the premises and for locations that are licensed as restaurants which derive at least 51 percent of gross revenue from the sale of food and nonalcoholic beverages or for a premises licensed on or before July 1, 1999 and continuously operating.

Sec. 4-4. - Possession or consumption on public or private property.

- (a) Except as specifically permitted as set forth in Section 4-4(c), of this section Section 4-3, or as authorized by a Special Event Permit issued in accordance with Sections 2.4.13 and 4.6 of the Land Development Regulations, it shall be unlawful for any person to sell, serve, deliver to another, consume or to have in his or her possession any alcoholic beverage in a publicly owned municipal park or recreation area, on any public school property, or at or on any municipally owned, leased, operated or controlled property or area.
- (b) Except as specifically permitted as set forth in Section 4-3, Section 4-4(c), or as authorized by a Special Event Permit issued in accordance with Section 2.4.13 and 4.6 of the Land Development Regulations, it ~~It~~ shall be unlawful for any person to consume or have in his possession any alcoholic beverage in an open container on any public street, thoroughfare, sidewalk, or on any public parking facilities in the City; nor shall any person consume or have in his possession any alcoholic beverage in an open container on any private property, except as a lawful guest and with the consent of the owner and person in charge of such private property.
- (c) ~~The prohibition against the sale of alcoholic beverages as set forth in (a) shall remain in effect, however, the~~ The prohibition of selling, serving, delivering to another, consumption or possession of alcoholic beverage on municipally owned park, recreation area, or property as set forth in Section 4-4(a) shall not apply to the following municipally owned parks, recreation areas, or properties: the Swick House facility, located at 15010 NW 142 Terrace; Alan Hitchcock Park, also known as Theatre Park, located at 14894 Main Street; or the Legacy Park Multipurpose Center, located at 15400 Peggy Road. The provisions of this section shall be applicable during an event for which one of the municipally owned parks, recreation areas, or facilities as described in this section are facility is rented used in accordance with the following:-
- (1) ~~Delivery-Sale, service, or delivery~~ of any alcoholic beverage for individual personal consumption at a fundraising event sponsored by a governmental entity; or,
- (2) ~~Sale, service, or delivery of any alcoholic beverage for individual personal consumption by a not for profit entity that charges admission for the event but does not charge for the delivery of alcoholic beverages is not considered a sale; or,-~~
- ~~(2)(3)~~ As permitted in accordance with a duly executed The rental agreement may specify which specifies such terms and conditions and permits the sale, service, or delivery for individual personal consumption during the period of the rental agreement as may be required by the City of Alachua as owner of the property.

State Law reference— Authority to regulate hours of sale, F.S. §§ 562.14(1), 562.45(2).