

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; PROVIDING 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 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, or 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)~~ (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).