

ORDINANCE NO. 966

AN ORDINANCE OF THE CITY OF CHIPLEY, FLORIDA, AMENDING ARTICLE I, SECTION 3 OF THE CODE OF ORDINANCES TO ADD DEFINITIONS REGARDING ALCOHOLIC BEVERAGE VENDORS; TO REPEAL PROVISIONS WHICH RELATE TO DISTANCE RESTRICTIONS FROM CHURCHES AND PUBLIC PARKS FOR CERTAIN LICENSED ALCOHOLIC BEVERAGE VENDOR BUSINESS LOCATIONS; TO ADD DISTANCE RESTRICTIONS FOR CERTAIN NEWLY DEFINED ALCOHOLIC BEVERAGE VENDORS; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEALER, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Chipley, Florida, has previously enacted Ordinance number 952, now codified in Chapter 3 of the City Code, related to the proximity of businesses selling or providing alcoholic beverages in relation to certain other specified establishments and residential dwellings; and

WHEREAS, the City Council has determined that it is in the best interest of all of the citizens and residents of the City that the provisions of Chapter 3 be modified to ease restrictions on the proximity of certain alcoholic beverage vendor business locations as they relate to churches and public parks (to the extent provided for herein); and

WHEREAS, Chapter 562, Florida Statutes ("Beverage Law"), specifically section 562.45(2)(a), authorizes the City of Chipley to regulate the location of place of business of any licensee under the Beverage Law,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF CHIPLEY, FLORIDA:

Chapter 3 of the City Code is hereby amended as follows: (underline = addition, strikethrough = deleted text)

Section 1. Definitions.

Sec. 3-10. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning

Bottle club means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent

structure. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held, bona fide restaurants licensed by the division of hotels and restaurants of the department of business and professional regulation whose primary business is the service of full course meals, or hotels and motels licensed by the division of hotels and restaurants of the department of business and professional regulation. any premises, whether operated for a profit or not, other than a residential premises, or a premises licensed to sell alcoholic beverages, in which any alcoholic beverage (beer, wine, or spirits) is kept or maintained by the owners or custodians of such premises, or wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises. This definition does not apply to:-

- ~~(1) — Sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held.~~
- ~~(2) — Bona fide restaurants licensed by the division of hotels and restaurants of the department of business regulation, whose primary business is the service of full course meals.~~
- ~~(3) — Hotels and motels licensed by the division of hotels and restaurants of the department of business regulation.~~

Brewpub/microbrewery/micro-distillery/micro-winery means any facility for the manufacturing of malt beverages, beer, wine, and other beverages with alcoholic content. Such facilities may also offer tours, tasting rooms, bars, restaurants, package sales, and distribution components.

Entertainment establishment means a business that provides recreational or leisure activities such as a pool hall, bowling alley, or night club.

Event venue means a place of business which does not sell alcoholic beverages nor serve alcoholic beverages for consumption on the premises but is rented to the public for single-use special events such as weddings or other private events and which permits its customers to bring their own bottles for consumption on the business premises.

Section 2. Locations Restricted.

Sec. 3-16. - Location restricted—Proximity to churches, public parks, residential dwellings, and schools and distance locations for bottle clubs, private clubs, and entertainment establishments and restrictions for established businesses.

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 City of Chipley Land Development Code except as provided herein:

- ~~(1) — Distance of licensed premises from churches and public parks. It shall be unlawful to sell beer, wine, or other alcoholic or intoxicating beverages for consumption on the premises within five hundred (500) feet of any church or public park, which distance shall be measured by measuring a radius from the main public entrance of the place or~~

~~establishment. If any portion of a parcel of land used as a church or public park lies within such radius, then the new establishment shall be deemed to be within such distance.~~

~~The aforementioned distance requirement regarding the distance from churches and public parks shall not apply to restaurants. "Restaurant" shall be defined, for the purpose of this section, as an establishment that meets the requirements of F.S. section 509.013 and, to the extent where more restrictive than F.S. section 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 fifty-one (51) percent of its revenue. 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 city and/or county permits required by law, and must meet all local zoning requirements for a restaurant. The term may include cafés, coffee shops, donut shops, delicatessens, cafeterias and other establishments of a similar nature.~~

- ~~(2)~~ (1) *Distance from dwelling or residence.* It shall be unlawful to sell beer, wine, or other alcoholic or intoxicating beverages for consumption on the premises within five hundred (500) feet of any residence, which distance shall be measured by measuring a radius from the main public entrance of the place or establishment. If any portion of a parcel of land used as a dwelling or residence lies within such radius, then the new establishment shall be deemed to be within such distance.

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 F.S. section 509.013 and, to the extent where more restrictive than F.S. section 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 fifty-one (51) percent of its revenue. 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 city and/or county permits required by law, and must meet all local zoning requirements for a restaurant. The term may include cafés, coffee shops, donut shops, delicatessens, cafeterias and other establishments of a similar nature.

- ~~(3)~~ (2) *Distance from schools.* Nothing herein shall amend, alter, affect, or reduce F.S. section 562.45(2) as it pertains to the sale of alcoholic or intoxicating beverages in relational distance to public or private schools. For measurement purposes the distance shall be measured by measuring a radius from the main public entrance of the place or establishment. If any portion of a parcel of land used as a school lies within such radius, then the new establishment shall be deemed to be within such distance.

- ~~(4)~~ (3) *Distance locations for bottle clubs, private clubs, and entertainment establishments.* It is unlawful for any licensed alcoholic beverage bottle club, private club, or entertainment establishments to operate, barter, sell, give away, exchange or otherwise dispose of in the nature of a gift or exchange alcoholic and intoxicating liquors for

consumption on the premises where sold, bartered, exchanged, given away or disposed of within one thousand (1,000) feet of any church, public park, residence or school. The distance shall be determined by measuring a radius from the main public entrance of the place or establishment. If any portion of a parcel of land in use as church, public park, residence or school facility lies within such radius, then the church, public park, residence or school shall be deemed to be within such distance. This provision shall not apply to brewpub/microbrewery/micro-distillery/micro-wineries nor to event venues.

- (5) (4) *Established business.* The restrictions contained in [subsections] (1), (2) and (3) herein, with respect to distances, shall not be construed or held to affect, in a restrictive manner, 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, public park or residence as of the effective date, whichever is lesser, unless such business qualifies as a "restaurant" as set forth above.

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, public park or residence shall not be cause for the revocation of the certificate of use or otherwise prevent the continuation of business.

Section 3. Severability. If any section or portion of a section of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to impair the validity, force, or effect of any other section or part of this ordinance.

Section 4. Repealer. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed and revoked. The provisions of the Code of Ordinances of the City of Chipley shall be amended to include the foregoing, with the Chapter and Section numbers as indicated above.

Section 5. Effective Date. That this ordinance shall become effective immediately upon its passage and adoption.

INTRODUCED at a Regular meeting of the City Council of the City of Chipley, Florida, on the 10th day of November, 2020, and **PASSED** at a Regular meeting of the City Council of the City of Chipley, Florida, on the 8th day of December, 2020.

CITY OF CHIPLEY, FLORIDA

ATTEST:

Tracy L. Andrews, Mayor

Patrice A. Tanner,
Assistant City Administrator/City Clerk

APPROVED AS TO FORM:

Michelle Blankenship Jordan
City Attorney