

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE TOWN OF ZOLFO SPRINGS, FLORIDA; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR WAIVER AND EXCEPTION OF ALCOHOL REGULATION CODE UNDER CIRCUMSTANCES OF APPROPRIATE RESPONSIBILITY AND LIABILITY; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Town Commission finds that there are circumstances where all or a portion of the alcohol regulation code Chapter 96 may be waived subject to matters pertaining to responsibility for proper sale and consumption of alcoholic beverages, and establishing liability and financial responsibility or insurance in such circumstances; and:

WHEREAS, the Town Commission finds that Hardee County can provide such responsible supervision and enforcement for sale and consumption of alcoholic beverages at Pioneer Park in compliance with a mutually agreeable interlocal agreement establishing responsibility and liability; and

WHEREAS, the Town Commission finds that some nonprofit entities may be able to responsibly supervise and enforce proper sale and consumption of alcoholic beverages at some special events, where the Town Commission deems there to be sufficient public purpose to allow all or partial waiver of Chapter 96 with an appropriate contract establishing the manner of operation, indemnity and insurance for such events; and,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF ZOLFO SPRINGS, FLORIDA AS FOLLOWS:

SECTION ONE. Amendment of Section 96-7 to move exceptions to open container code to the new "Exceptions" Section.

Sec. 96-7. Possession of open containers.

(a) Possession of open containers unlawful in certain locations. It shall be unlawful for any person to consumer or have in his or her possession any alcoholic beverages in any open container on any public street, thoroughfare, or sidewalk (except in a licensed sidewalk cafe) or on any public or semipublic parking facility in the town, except as specified in subsection (d) below. It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while in or on any motor vehicle on any public or semipublic parking facility in the town. The term "semipublic parking facility" shall include any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building or multiple-family residential building.

(b) Consumption on certain premises prohibited during certain hours. In addition to the prohibitions contained in subsection (a), no person shall consume or have in his or her possession any alcoholic beverages in an open container on any other privately owned property, except as a lawful guest and with the consent of the owner or person in charge of such privately owned property.

(c) The provisions of this section shall apply whether the location owner holds a valid beverage license or not.

Sec. 96-8. Exceptions

(a) This Chapter shall not apply to:

- (1) Hardee County events at Pioneer Park that are subject to an interlocal agreement between the Town and the County as to responsibility and liability.
- (2) Portions of this Chapter shall not apply to special events held by the Town if the Town Council approves a waiver for such events.
- (3) this Chapter shall not apply to special events held by 501 (c) nonprofit entities where the Town Council finds that such waiver is in the public interest and contracts with that entity to ensure responsibility and liability for the use and sale of alcoholic beverage.

(b) Section 96-7 shall not apply to:

- (1) Any person engaged in picking up empty beverage containers for the purpose of collecting deposits or value of the bottle or can itself, nor to any person taking part in a litter control campaign.
- (2) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages, provided that such alcoholic beverage is being transported solely as part of the licensed business activity.
- (3) The transportation of any open container of an alcoholic beverage in or on any motor vehicle, provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk or other non-passenger or nondriver area of the motor vehicle.
- (4) The transportation of any open container or consumption of an alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, and the separate passenger compartments of limousines, provided that the operator thereof is not in immediate possession of or engaged in the consumption of any alcoholic beverage or open container of an alcoholic beverage. The operator must have in his possession evidence of employment by a bona fide chauffeur's service, limousine service, taxicab company or bus company.

Sec. 96-9. Penalties for offenses.

Violation of this chapter is a misdemeanor and is punishable pursuant to the provisions of F.S. § 162.22 by imprisonment for up to 60 days or a fine of up to \$500.00 or both such imprisonment and fine.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. SCRIVENER'S ERROR.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the Town Clerk or the Clerk's designee, without public hearing.

SECTION 4. CODIFICATION.

The provisions of this Ordinance shall become and be made part of the Code of the Town. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall be effective upon passage.

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This Ordinance was read for the first time at the regular session of the Town Commission held on the 28th day of February 2023. The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Cannon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner White	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Schofield	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner DeLeon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Zuniga	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The final reading was held on the 25th day of April 2023, at a regular session of the Town Commission, and this Ordinance was adopted. The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Cannon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Zuniga	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commissioner Schofield	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner DeLeon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner White	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TOWN OF ZOLFO SPRINGS, FLORIDA


Rod Cannon, Mayor

ATTEST:


Susan Williamson, Town Clerk

**APPROVED AS TO FORM AND
SUBSTANCE:**


Gerald T. Buhr, Town Attorney