

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2016-05**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE II, LOCATION OF ALCOHOLIC BEVERAGE ESTABLISHMENTS; SECTION 6-32, APPLICATION FOR APPROVAL OF LOCATION; SECTION 6-33, AUTHORITY OF CITY COMMISSION TO DESIGNATE LOCATIONS; VARIANCES; AND SECTION 6-34, LOCATION RESTRICTIONS, OF THE CODE OF ORDINANCES, CITY OF INDIAN ROCKS BEACH, BY DELETING THE 500-FOOT DISTANCE REQUIREMENT FROM CHURCHES, CITY YOUTH CENTERS, YOUTH RECREATION AREAS, OR ANOTHER LICENSED ESTABLISHMENT; PROVIDING CLARITY THAT ALCOHOLIC BEVERAGE USE APPLICATIONS REQUIRE CITY COMMISSION APPROVAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Indian Rocks Beach desires to delete the 500-foot requirement from churches, city youth centers, youth recreation areas, or another licensed establishment; and

WHEREAS, the City Commission of the City of Indian Rocks Beach desires to clarify that alcoholic beverage use licenses required city commission approval; and

WHEREAS, the City Commission of the City of Indian Rocks Beach believes these changes in the City Code are in the best interest of the public health, safety, and welfare of the city; and

WHEREAS, the City Commission of the City of Indian Rocks Beach has determined that amendments to Sections 6-32, 6-33, and 6-34 of Chapter 6 of the City of Indian Rocks Beach Code are necessary to make such changes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF INDIAN ROCKS BEACH, FLORIDA, THAT:

Section 1. Chapter 6, Alcoholic Beverages; Article II, Location of Alcoholic Beverage Establishments; Section 6-32, Application for approval of locations, of The Code of Ordinances, City of Indian Rocks Beach, Florida, is hereby amended to read as follows:

Sec. 6-32. Application for approval of location.

(a) Any person, before starting any business dispensing alcoholic beverages subject to licensing by the state, shall file with the city an application to

conduct such business ~~at a definite location~~ on the form as provided by the city, ~~with all requested information furnished as follows:~~ The following information shall be provided:

- (1) The name and address of the applicant.
- (2) If the applicant is the lessee or tenant, a notarized statement by the owner consenting to the application.
- (3) The legal description of the property where the business is located, including a survey which clearly sets out the location of the building.
- (4) The street address of the property.
- (5) The alcoholic beverage classification requested.
- ~~(6) A statement that the building where the establishment will be located exists or that the building plans for such building have been filed and a building permit obtained.~~

(b) ~~The fee for such application fee shall be established by the city commission and is listed in chapter 15, Schedule of fees,; and each request must shall be approved by the city commission established by resolution and periodically adjusted by the city commission.~~

(c) Applications will be reviewed by the ~~designated law enforcement agency~~ Pinellas County Sheriff's Office and the ~~community development planning and zoning~~ department for compliance.

(d) A representative of the ~~designated law enforcement agency~~ Pinellas County Sheriff's Office or city employees authorized by the city manager ~~shall may be authorized to~~ make an inspection of each establishment at any reasonable time to determine whether or not the provisions of this chapter or any other Code section or state statute are being fully complied with. ~~Where If a representative of the designated law enforcement agency Pinellas County Sheriff's Office or city employee as authorized by the city manager, or the fire chief or designated representative is refused entry, then where the subject matter pertains to this Code or the fire, health, zoning, electrical or plumbing codes,~~ an administrative search warrant shall be obtained pursuant to F.S. § 933.21.

(e) Alcoholic beverage use designations are approved for a specific property location (i.e., building, lounge, restaurant, store) and a specific applicant. Any change in ownership of the establishment ~~will~~ requires the filing of a new

application and approval by the city commission. A change in ownership shall include the purchase or acquisition of 50 percent plus one share or more of stock and/or assets of the corporate entity, partnership or similar ownership entity.

Section 2. Chapter 6, Alcoholic Beverages; Article II, Location of Alcoholic Beverage Establishments; Section 6-33, Authority of city commission to designate locations; variances, of The Code of Ordinances, City of Indian Rocks Beach, Florida, is hereby amended to read as follows:

Sec. 6-33. Authority of city commission to designate locations; variances.

(a) The city commission shall have the power to designate the location and classification, ~~including~~ The city commission may place reasonable restrictions that ~~the city commission it~~ deems appropriate, ~~for which the sale of alcoholic beverages may be permitted. These areas are on file with the city.~~

(b) No premises shall be used or occupancy permit issued for the sale of alcoholic beverages, for package sales, or on-premises consumption unless approved by the city commission.

~~(b) Variances to the distance requirements may be approved by the city commission where the city commission finds that an unnecessary hardship exists and the granting of the variance will not be injurious to the community.~~

Section 3. Chapter 6, Alcoholic Beverages; Article II, Location of Alcoholic Beverage Establishments; Section 6-34, Location restrictions, of The Code of Ordinances, City of Indian Rocks Beach, Florida, is hereby amended to read as follows:

Sec. 6-34. Location restrictions.

(a) It shall be unlawful for any vendor to offer for sale any alcoholic beverages or package liquors or to locate, keep, or maintain any establishment dealing in alcoholic beverages or package liquors in any area other than those designated by the city commission.

(b) It shall be unlawful for any vendor to maintain any establishment or locate any establishment within 500 feet of any ~~established church or public or private~~ elementary school, middle school, or secondary school unless the city commission approves the location as promoting the public health, safety, and general welfare of the city under proceedings as provided in s. 166.041(3)(c) ~~city youth center or youth recreation area or another establishment already licensed for the sale of alcoholic beverages or package~~

~~liquors, excluding restaurants with a 1-COP restricted or 2-COP restricted license. The distance shall be measured as follows:—~~

- ~~(1) Starting at the main entrance of the applicant's establishment, (i) measure directly out at 90 degrees to the edge of the right-of-way or sidewalk running parallel to the thoroughfare the establishment fronts on; then (ii) measure along the edge of the right-of-way or sidewalk to a point directly in front of and at 90 degrees to the entrance of the closest establishment dealing in alcoholic beverages or package liquors; then (iii) measure from that point at the right-of-way or sidewalk directly 90 degrees to the entry door of the existing establishment (see diagram A at the end of this section).—~~
- ~~(2) If the main entrance of the new or existing establishment is on the side of the building, measure directly out ten feet from the building; then turning 90 degrees continue directly toward the thoroughfare and measure to the edge of the right-of-way; then turning 90 degrees continue measurement along the right-of-way or sidewalk, following the prescribed measurement formula (see diagram A at the end of this section).—~~
- ~~(3) If the main entrance of the new or existing establishment is on the side of the building, then measure directly out ten degrees from building; then turning 90 degrees continue measurement along right-of-way or sidewalk, following the prescribed measurement formula (see diagram A at the end of this section).—~~
- ~~(4) If there is a youth recreation area, youth center, public or private school, or church within the area, measure from the applicant's main entrance, following the prescribed measurement formula to the nearest point (property line corner) of the properties involved (see diagram B at the end of this section).—~~

~~The applicant shall submit a legal survey or other acceptable certified measurement showing the distances calculated by the prescribed measurement formula.—~~

~~(c) A business with the principal occupation of a restaurant, defined as an establishment having necessary equipment to cook, prepare and serve full course meals (51 percent food sales plus 49 percent beer and wine sales) shall be exempt from the distance requirements providing the applicant requests a 1-COP restricted or 2-COP restricted license only.—~~

~~(d)~~(c) Zoning approval must be secured for 1APS applications that fall under the following categories:

- (1) All new applications.
- (2) Change of location.
- (3) Change of alcoholic beverage license to 1APS.
- (4) Amended sketch of the floor plan that would extend the premises beyond the current approved floor plan.

Section 4. The provisions of this Ordinance shall be deemed to be severable. If any part of this Ordinance is deemed unconstitutional, it shall not affect the constitutionality of other portions of this Ordinance.

Section 5. This Ordinance shall become effective immediately upon final passage and adoption.

ADOPTED ON FIRST READING by the City Commission of the City of Indian Rocks Beach, Florida, held on the 9th day of August, 2016.

PUBLISHED THIS 2nd day of September, 2016.

ADOPTED ON SECOND READING AND FINAL READING this 13th day of September, 2016.

R.B. Johnson, Mayor-Commissioner

ATTEST:

Deanne B. O'Reilly, MMC, City Clerk

Approved as to form and legal sufficiency:

Randy D. Mora, City Attorney

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