

ORDINANCE NO. ORD-2019-04

AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 4-4 OF THE CODE OF ORDINANCES OF THE CITY OF MULBERRY, FLORIDA, MODIFYING THE SUNDAY HOURS OF SALE, CONSUMPTION AND SERVICE OF ALCOHOLIC BEVERAGES AT PLACES LICENSED BY THE DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO OF THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 562.14 of the Florida Statutes states "Except as otherwise provided by ... municipal ordinance, no alcoholic beverages may be sold, consumed, served or permitted to be served or consumed in any place holding a license [from the Division of Alcoholic Beverages and Tobacco ("DABT") of the Florida Department of Business and Professional Regulation] between the hours of midnight and 7 a.m. of the following day"; and

WHEREAS, in 1967, the City of Mulberry adopted Ordinance No. 4.67 regulating the hours of sale, consumption, service and permission of service or consumption of alcoholic beverages within the City of Mulberry's municipal limits; and

WHEREAS, Ordinance No. 4.67, codified in Section 4-4 of the *Code of Ordinances of the City of Mulberry, Florida*, was last amended by the City in 1985; and

WHEREAS, the sale, consumption, service and permission of service or consumption of alcoholic beverages on Sundays is currently limited to the hours of 12:00 p.m. (Noon) to 12:00 a.m. (Midnight) within the City of Mulberry's municipal limits; and

WHEREAS, the Cities of Lake Wales, Lakeland and Winter Haven currently authorize the sale, consumption, service and permission of service or consumption of alcoholic beverages on Sundays between hours of 7:00 a.m. to 2:00 a.m. Monday next; Polk County currently authorizes the sale, consumption, service and permission of service or consumption of alcoholic beverages within the unincorporated area on Sundays between the hours of 7:00 a.m. and 2:00 a.m. Monday next; Hillsborough County currently authorizes the sale, consumption, service and permission of service or consumption of alcoholic beverages within the unincorporated area on Sundays between the hours of 7:00 a.m. and 3:00 a.m. Monday next and Manatee County currently authorizes the sale, consumption, service and permission of service or consumption of alcoholic beverages within the unincorporated area on Sundays between the hours of 7:00 a.m. and 2:30 a.m. Monday next; and

WHEREAS, package stores and DABT-licensed establishments situated within the City of Mulberry are competitively harmed by the inability to serve customers on Sundays from the hours of 7:00 a.m. to Noon and the hours of Midnight to 2:00 a.m., Monday next, given the proximity of the City of Mulberry to Lakeland, unincorporated Polk County, unincorporated

Hillsborough County and unincorporated Manatee County; and

WHEREAS, it is the sense of the City Commission of the City of Mulberry that Section 4-4 of the *Code of Ordinances of the City of Mulberry, Florida* should be amended to authorize the sale, consumption, service and permission of service or consumption of alcoholic beverages on Sundays between hours of 7:00 a.m. to 2:00 a.m. Monday next, matching in great substance the local regulations of Lakeland, Polk County, Hillsborough County and Manatee County; **NOW, THEREFORE:**

Be it enacted by the city commission of the City of Mulberry, Florida:

Section 1. Findings.

The recitals to this ordinance are found to be true by the City Commission, are incorporated herein by reference and made a part hereof.

Section 2. Amendment to Section 4-4 of the Code of Ordinances.

Section 4-4 of the *Code of Ordinances of the City of Mulberry, Florida* is amended to read (additions are underlined and deletions are ~~stricken through~~):

Sec. 4-4. - Hours of sale.

- (a) Alcoholic beverages may be sold, consumed or served or permitted to be served or consumed at any place holding a license under the Florida Department of Business Regulation, Division of Alcoholic Beverages and Tobacco within the territory of the city only between the following hours:

Monday 7:00 a.m. until 2:00 a.m. Tuesday next

Tuesday 7:00 a.m. until 2:00 a.m. Wednesday next

Wednesday 7:00 a.m. until 2:00 a.m. Thursday next

Thursday 7:00 a.m. until 2:00 a.m. Friday next

Friday 7:00 a.m. until 2:00 a.m. Saturday next

Saturday 7:00 a.m. until 2:00 a.m. Sunday next

Sunday ~~12 Noon~~ 7:00 a.m. until ~~12:00 Midnight~~ Sunday 2:00 a.m.
Monday next

- ~~(b) In the event that New Year's Eve shall fall on Sunday, the hours for sale of alcoholic beverages for on the premises consumption as provided above shall be extended until 2:00 a.m. Monday next.~~

- ~~(e)~~(b) There shall be no sales, or service of beverages in sealed containers containing alcohol of more than 14 percent by weight for consumption off the premises on Sundays.
- ~~(d)~~(c) Violation of this section shall be punishable by a fine of not more than \$500.00 or imprisonment for not more than 60 days, or both.
- ~~(e)~~(d) It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of this section is held invalid, the remainder of the section shall not be affected.

Section 3. Conflicts.

All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 4. 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 invalidate or impair the validity, force or effect of any other section or part of this Ordinance.

Section 5. Codification; Administrative Correction of Scrivener's Errors.

It is the intent of the City Commission that the provisions of Section 2 of this Ordinance shall be codified and become and be made a part of the *Code of Ordinances of the City of Mulberry*. Section 2 of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word. The implementing sections of this Ordinance, Sections 1, 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance. Regardless of whether such inclusion in such codes is accomplished, sections of this ordinance may be renumbered or relettered and the correction of typographical or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

(the rest of this page left intentionally blank; execution follows on page 4)


Section 6. Effective Date.

This Ordinance shall become effective immediately upon its passage and adoption

INTRODUCED on First Reading this 16th day of April, 2019.

PASSED AND ENACTED on Second Reading, with a quorum present and voting, by the City Commission of the City of Mulberry, Florida this 7th day of May, 2019.

CITY OF MULBERRY, FLORIDA



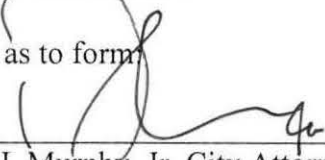
Vice-Mayor Collins Smith

Attest:



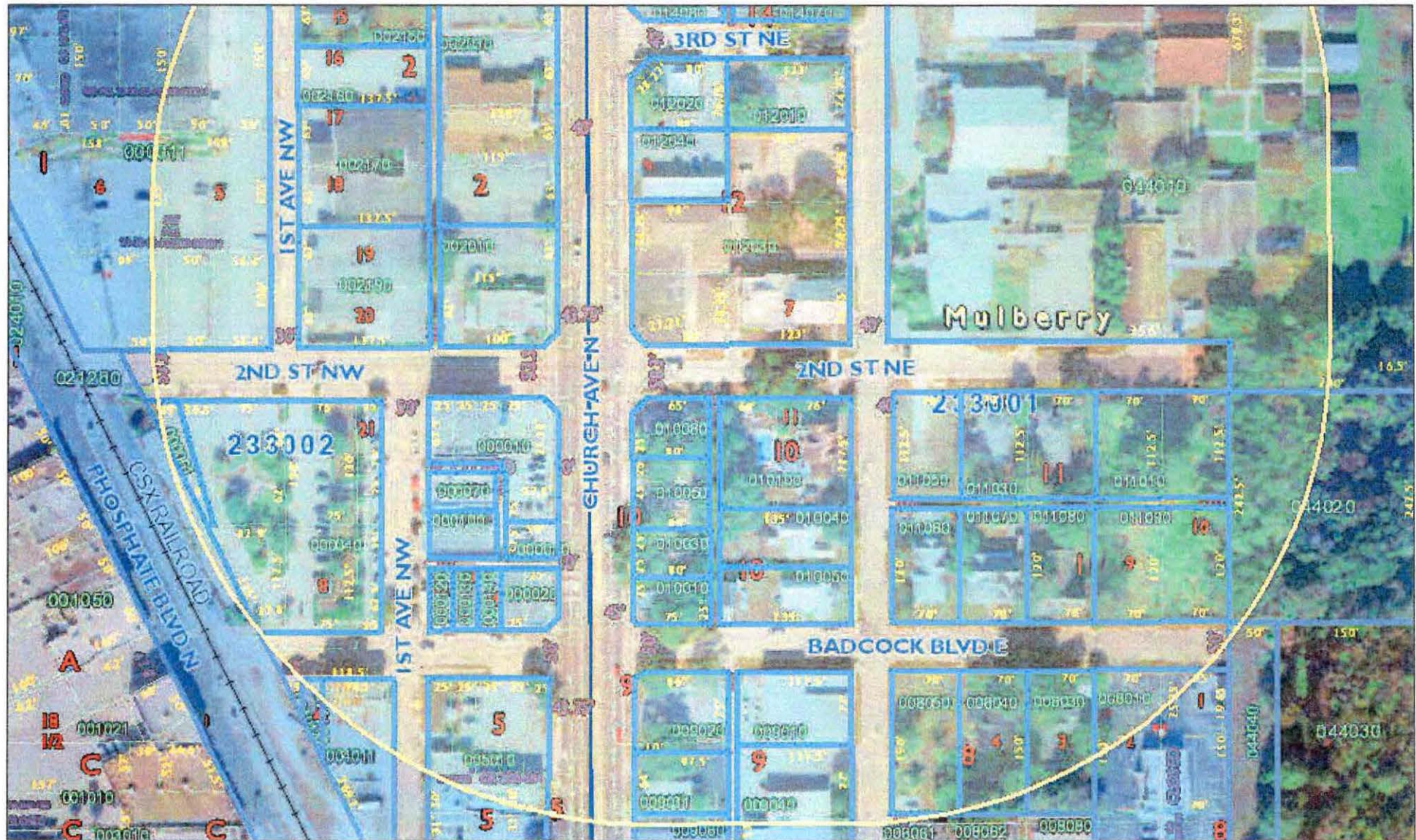
Sharon Lauther, City Clerk

Approved as to form

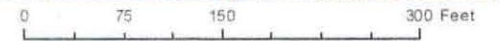


Frederick J. Murphy, Jr. City Attorney

First Baptist Church - 500 Feet (Detail 1)



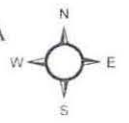
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| Selected Parcel | Tiers | Parcels | Gov't Lots |
| Roads | Dimensions_ParcelFabric | Tax | |
| Waterbodies | Dimensions_Carto_Dist | Separated Right | |
| Municipal Boundaries | Dimensions_LabelText | Surrounding Counties | |
| Lots | | PLSS Townships | |



All maps are worksheets used for illustrative purposes only they are not surveys. The Polk County Property Appraiser assumes no responsibility for errors in the information and does not guarantee the data is free from error or inaccuracy. The information is provided "as is".



Marsha M. Faux, CFA, ASA
 Property Appraiser
 Polk County, Florida
 April 7, 2019



Diocese of South Florida - 500 Feet (Detail 2) (2020)



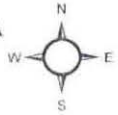
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| Selected Parcel | Tiers | Arrows | PLSS Sections |
| Roads | Dimensions_ParcelFabric | Arrows | PLSS Boundaries |
| Waterbodies | Dimensions_Carto_Dist | Parcels | Gov't Lots |
| Municipal Boundaries | Dimensions_LabelText | Tax | Separated Right |
| Lots | | | |

0 55 110 220 Feet

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 Property Appraiser
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First Apprenticeship Church of God, Inc. - Parcels Within 500 Feet



- Buffer
- Buffered Parcels
- Selected Parcel
- Roads
- Waterbodies
- Municipal Boundaries
- Lot and Block Text
- Dimensions_ParcelFabric
- Railroads
- Parcels**
- Tax
- Separated Right
- Surrounding Counties
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- Gov't Lots



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