

ORDINANCE NO. 17- 04

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA REGARDING SPECIAL EVENTS AND ALCOHOL PERMITTING; AMENDING SECTION 5.001 OF THE WAKULLA COUNTY CODE OF ORDINANCES REGARDING COMPLIANCE WITH STATE LAWS AND RULES RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTIONS 5.003 AND 5.004, RELATING TO HOURS OF SALE AND LOCATIONS OF SALE; AMENDING SECTION 5.007, RELATING TO ALCOHOL ON COUNTY PROPERTY; AMENDING SECTION 23.003 PERTAINING TO DEFINITIONS; AMENDING SECTION 23.006 PERTAINING TO ALCOHOLIC BEVERAGES IN COUNTY PARKS; ADDING A NEW SECTION PERMITTING THE SALE AND CONSUMPTION OF ALCOHOL AT SPECIAL EVENTS ON CEERTAIN COUNTY PROPERTY PURSUANT TO CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 5.007 of the Wakulla County Code of Ordinances (the “Code”), presently prohibits the possession, consumption, dispensation, or sale of any alcoholic beverage by any person upon any County property, whether owned, leased, rented, or under contract by the County in any manner, except by law enforcement personnel or court personnel incident to enforcement of law or ordinances, or for scientific or educational purposes under the direction of County officers or agents; and

WHEREAS, section 23.006 of the Code provides that it is unlawful for any person to manufacture, possess, consume, purchase, sell, or offer for sale any alcoholic beverage in any park controlled by the County except where authorized by the County Parks and Facilities director; and

WHEREAS, section 23.007 of the Code provides the permitting and approval process for advertising, engaging in, participating in, aiding, or organizing an outdoor public assembly or for reserving any County park; and

WHEREAS, the Board of County Commissioners of Wakulla County, Florida (the “Board”), desires to allow for the limited sale and consumption of alcohol at special events taking place on or in certain County property and also provide additional requirements for events at which alcohol will be sold; and

WHEREAS, the proper permitting and approval of special events, especially those at which alcoholic beverages will be present, serves an important public purpose and is necessary to protect the public health, safety, and welfare of persons attending such events.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The above recitals are hereby incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 5.001. Section 5.001 of the Wakulla County Code of Ordinances, is hereby amended as follows:

Section 5.001. Compliance with State Laws and Rules; definitions.

(a) All manufacturers, distributors, exporters and vendors licensed by the State Division of Alcoholic Beverages and Tobacco ~~beverage~~, also known as the ~~state beverage department~~ State Division of Alcoholic Beverages, shall comply with all laws of the state and all rules and regulations promulgated by the state beverage department in the conduct and operation of all businesses authorized to sell, serve and dispense alcoholic beverages. Reference is hereby made to F.S. chs. 561 through 568, and the same are hereby incorporated herein by reference and adopted as a part hereof, except as portions thereof may be modified hereinafter.

(b) For purposes of this chapter, the following words have the meanings indicated below:

Alcoholic beverage: Distilled spirits and all beverages containing one-half of one percent (0.5%) or more alcohol by volume, as determined in accordance with section 561.01(4), Florida Statutes.

Intoxicating liquor and fortified wines: Liquors, wines, or beer containing more than 6.243 percent of alcohol by volume.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 3. AMENDMENT OF SECTION 5.003. Section 5.003 of the Wakulla County Code of Ordinances, is hereby amended as follows:

Section 5.003. Hours of Sale.

(a) It shall be unlawful for any alcoholic beverages to be sold, served, dispensed, consumed or permitted to be served ~~to~~ or consumed on the premises of

any licensee operating under a valid license issued by the State Division of Alcoholic Beverages between the hours of 2:00 a.m. and 5:30 a.m. each day.

(b) It is the intent of this section to allow for the sale of alcoholic beverages by any licensee operating under a valid license issued by the State Division of Alcoholic Beverages seven (7) days per week at all times not specifically prohibited herein.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 4. AMENDMENT OF SECTION 5.004. Section 5.004 of the Wakulla County Code of Ordinances, is hereby amended as follows:

Section 5.004. Locations for Sale.

(a) No vendor licensed by the State Division of Alcoholic Beverages, to sell, serve or dispense intoxicating liquor and fortified wines, as defined herein ~~in the state statutes~~, shall conduct his place of business within, and such place of business is prohibited from being operated within:

* * *

(b) No certificate of use or occupancy, building, plumbing, electrical or other permits, including, but not limited to, health permits, shall be issued to any person, firm, association or corporation, conducting or operating a business or intending to operate a business for the sale of intoxicating liquors and fortified wines ~~alcoholic beverages~~ at a location prohibited pursuant to subsection (a) herein. Should any person or designated agent issuing a certificate as described above have any questions as regards the intentions of any person, firm, association or corporation he shall ask for a verified letter as to the intent.

* * *

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 5. REPEAL AND REPLACEMENT OF SECTION 5.007. Section 5.007 of the Wakulla County Code of Ordinances, is hereby repealed in its entirety and replaced with the following:

Section 5.007. Alcohol on county property – prohibited; exceptions.

It shall be unlawful for any person to use, possess, consume, purchase, dispense, sell, or offer for sale any alcoholic beverage, upon any county property or within or on any public street, thoroughfare, highway, sidewalk, or right-of-way owned, leased, rented, under contract, or controlled by the county in any manner, except when done:

- (a) By law enforcement or court personnel, incident to enforcement of pertinent law;
- (b) For scientific or educational purposes under the direction of county officers or agents; or,
- (c) In compliance with a special event permit obtained from the Wakulla County Parks and Facilities Department as provided in Chapter 23 of the Wakulla County Code of Ordinances.

SECTION 6. AMENDMENT OF SECTION 23.003. Section 23.003 of the Wakulla County Code of Ordinances is hereby amended as follows:

Section 23.003. Definitions.

For the purposes of this chapter, the following words have the meanings indicated below:

Alcoholic beverage: Distilled spirits and all beverages containing one-half of one percent (0.5%) or more alcohol by volume, as determined in accordance with section 561.01(4), Florida Statutes.

* * *

Special event: A ceremony, festival, show, exhibition, concert, pageant, rally, demonstration or assembly of any kind reasonably expected to have a total of 75 persons or more in attendance, which is held in or on any county park or county facility. However, in the event alcoholic beverages will be used, possessed, consumed, purchased, dispensed, sold, or offered for sale, the term “Special event” shall encompass any ceremony, festival, show, exhibition, concert, pageant, rally, demonstration or assembly of any kind which is held in or on any county property.

* * *

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 7. AMENDMENT OF SECTION 23.006. Section 23.006 of the Wakulla County Code of Ordinances is hereby amended as follows:

It shall be unlawful for any person to use ~~manufacture~~, possess, consume, purchase, dispense, sell, or offer for sale any alcoholic beverage as defined herein, or any controlled substance as defined in F.S. ch. 893, in any county park or county facility, specifically excepting boat launching facilities and boat ramps as pertains to possession of alcohol only, except as provided in this chapter.

(~~stricken~~ words indicate deletions, underlined words indicate additions)

SECTION 8. CREATION OF A NEW SECTION OF THE WAKULLA COUNTY CODE. The Board hereby creates a new section within chapter 23 of the Wakulla County Code of Ordinances to address special events at which alcoholic beverages may be used, possessed, consumed, purchased, dispensed, sold, or offered for sale, as follows:

Special Events Involving the Use, Possession, Consumption, Purchase, Dispensation, Sale, or Offer for Sale of Alcoholic Beverages.

(a) The use, possession, consumption, purchase, dispensation, sale, or offer for sale of alcoholic beverages on property owned, leased, or managed by the County is generally inconsistent with the use of such property and should be prohibited, however, under certain circumstances and with the necessary precaution and preparation taken, such activities may be deemed appropriate, where offered by a person or entity other than the County, on or in the following County facilities:

(1) Wooley Park

(2) Shell Point Beach

(b) A person or entity seeking to obtain a permit for a special event on County property, at which alcoholic beverages will be used, possessed, consumed, purchased, dispensed, sold, or offered for sale, may only conduct such activities related to alcoholic beverages upon approval of an Alcohol Permit Application by the Parks and Facilities director in accordance with this section and issuance of an Alcohol Permit. Conducting such activities without an Alcohol Permit is prohibited and shall be a violation of this section.

(c) The Alcohol Permit Application and associated application fee must be submitted at least thirty (30) days prior to the event and shall include the

following information in addition to the information required in the general Use Permit Application required pursuant to section 23.007:

(1) A list of any and all alcoholic beverages that will be served or sold (i.e., beer, wine, liquor, etc.).

(2) A description of where and how alcoholic beverages will be served or sold (i.e. hospitality or VIP area, the entire venue, park, or street, and glass, bottle, plastic cup, etc.).

(3) The times at which alcoholic beverages will be sold or served for consumption.

(4) Whether there will be advertising regarding the alcoholic beverages, and a description of how such beverages will be advertised, the locations at the event where alcoholic beverages may be used, possessed, consumed, purchased, dispensed, sold, or offered for sale.

(5) A plan outlining the provision of toilet and sanitation facilities, electricity and lighting, adequate public safety and security as determined by local law enforcement, traffic control, safety, parking, medical facilities and personnel as determined by the County's emergency medical services director, solid waste, and cleanup.

(6) A plan describing who will be involved with the sale and dispensation of any alcoholic beverage and the plan for training those individuals in the responsible sale and dispensation of those products. This plan should also explain what steps will be taken to ensure that persons under the age of 21 do not obtain or consume alcohol at the event and to prevent intoxication of persons ages 21 or older.

(7) A damage deposit in the amount of \$500.00 to cover damage to the park or property where the assembly or event will be held. Damages in excess of the damage deposit shall be the responsibility of the applicant, and the applicant shall be billed for such amounts.

(8) A State of Florida 1-3 day alcohol temporary sales permit for civic, charitable, and/or non-profit organizations or current and active State of Florida license to sell alcoholic beverages held by the person or entity which will actually be selling or dispensing the alcoholic beverages.

(9) Certificate of liquor liability insurance from the company, individual, or organization serving or selling alcoholic beverages. This insurance shall be obtained from an insurance company rated "A" or higher and in the amount of at least \$3,000,000 per occurrence and shall name Wakulla County as an additional insured for the date of the event.

(10) An agreement stipulating that Applicant will indemnify and hold the county harmless against all liability, including court costs and attorney's fees, and attorney's fees on appeal, for any and all claims for damage to property, or injury to or death of persons arising out of, or resulting from the issuance of the Alcohol Permit or the conduct of the assembly or event or any of its participants.

(e) In reviewing an Alcohol Permit Application, the Parks and Facilities director shall review the following criteria to determine whether to grant or deny a permit:

(1) The expected audience or attendees of the assembly or event (i.e., adults only, families, youth, children).

(2) The time of day and day of week of the assembly or event.

(3) Whether the use, possession, consumption, purchase, dispensation, sale, or offer for sale of alcoholic beverages is consistent with the goals and objectives of the County as it relates to the program involved.

(4) The safety and security of attendees and the general public.

(5) Whether there are adequate provisions in place to protect against damage to the County, public property, or the health, safety, and welfare of the public.

(6) Whether there are adequate provisions for traffic control and public safety.

(7) Potential liability to the County.

(f) The Parks and Facilities director shall deny an Alcohol Permit in the event of the following:

(1) The applicant, any of the persons participating directly or indirectly in the financial backing of the special event, or any of the performers have been convicted or found to be in violation of any federal,

state, or local law or ordinance pertaining to special events, alcoholic beverages, or controlled substances.

(2) The applicant has made any false representations in the application.

(3) The Parks and Facilities director determines that, based on the information provided in the applicant's Alcohol Permit application, that the applicant lacks the required state licenses.

(4) The Parks and Facilities director determines that, based on the information provided in the applicant's Alcohol Permit application, that the necessary public safety, sanitation, lighting, security, parking, medical, or solid waste facilities will not be available.

(5) The expected audience of the assembly or event is inconsistent with alcohol use.

(g) In the event the Parks and Facilities director denies an Alcohol Permit, the applicant may appeal the denial to the County Administrator. The appeal shall be taken by the applicant within five (5) business days after receipt of the notice of denial. The County Administrator shall consider the appeal and shall direct that a permit be issued unless good cause for denial is shown using the criteria provided in this section.

(h) The Parks and Facilities director, in denying an application for a permit, may authorize the conduct of the special event involving alcoholic beverages with conditions different than those requested by the applicant. An applicant desiring to accept an alternate Alcohol Permit shall, within five (5) business days after notice of the Parks and Facilities director's conditions, file a written acceptance with the Parks and Facilities director. An alternate Alcohol Permit shall otherwise conform to the requirements of and shall have the full effect of a permit under this section.

(i) Each Alcohol Permit shall state the following information:

(1) Nature of the special event.

(2) Date of the special event.

(3) The segment of time for the special event.

(4) The location of the special event and/or the portions of the streets, parks or other facilities to be traversed or occupied by the special event.

(5) The approximate number of persons, animals and/or motor vehicles that will participate in the special event.

(6) The approximate number of attendees who will be present at the special event.

(7) Such other conditions or restrictions as the Parks and Facilities director shall find necessary or appropriate to the enforcement of this chapter.

(j) A permittee receiving an Alcohol Permit shall comply with all Alcohol Permit directions and conditions and with all state and county laws and ordinances. The special event contact person or other person heading or leading such special event shall carry the Alcohol Permit in addition to the Special Event Permit upon his person during the conduct of the special event and shall display the permit to law enforcement officers or to County personnel upon demand.

(k) The Parks and Facilities director shall have the authority to revoke an Alcohol Permit immediately upon violation of any one or more of the conditions or standards for issuance as herein set forth, or when a public emergency arises where the law enforcement resources required for that emergency are so great that the deployment of police services for the special event would have an adverse effect upon the welfare and safety of persons or property.

(l) The applicant and any other persons, organizations, firms or corporations on whose behalf the application is made by filing an Alcohol Permit application agree to obtain liability insurance coverage for the scheduled event.

(m) Violation.

(1) It shall be unlawful for any person to stage, present, or conduct any special event involving alcoholic beverages within the county without first having obtained an Alcohol Permit therefor as herein provided.

(2) It shall be unlawful for any person knowingly to participate in any special event involving alcoholic beverages within the county for which an Alcohol Permit has not been granted.

(3) It shall be unlawful for any person in charge of or responsible for the conduct of a special event involving alcoholic beverages to knowingly fail to comply with any term or condition of the Alcohol Permit.

SECTION 9. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 10. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after enactment by the Board and shall be effective upon filing with the Department of State.

PASSED AND DULY ADOPTED this 6th day of March, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WAKULLA COUNTY, FLORIDA



Brent X. Thurmond, Clerk
Brent X. Thurmond, Clerk

BY: Ralph Thomas
Ralph Thomas, Chair

APPROVED AS TO FORM AND CONTENT:

Heather J. Encinosa
Heather J. Encinosa,
County Attorney