

ORDINANCE NO. 2017-10

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER SIX OF THE HILLIARD TOWN CODE TO ALLOW PRIVATE CLUBS TO SELL BEER AND WINE FOR ON-PREMISES CONSUMPTION WITHIN THE TOWN LIMITS; TO DEFINE PRIVATE CLUBS; FOR CLARIFICATION AND FOR GENDER NEUTRALITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mr. Bobby Franklin desires to open within the Town of Hilliard an American Legion Post at which beer and wine, as those terms are defined in Section 6-1 of the Hilliard Town Code, will be offered for on-premises consumption as part of its food and beverage service to members and guests of that Post; and

WHEREAS, the Town of Hilliard currently permits the sale of beer and wine for on-premises consumption at restaurants only; and

WHEREAS, the Hilliard Town Council has the authority to amend the Hilliard Town Code in accordance with Section 4.01 of the Town Charter,

WHEREAS, the Town of Hilliard believes the establishment of an American Legion Post within the Town will enhance the quality of life of Town residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein.

Section 2. Sections 6-1, 6-2, 6-5, 6-6, 6-8, and 6-11 of Chapter Six of the Hilliard Town Code are hereby amended as follows (additions are denoted by underlining; deletions are denoted by striking through):

Sec. 6-1. - Definitions.

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

Alcoholic beverages means all distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.

Beer extends to and includes all brewed beverages containing malt of any alcoholic content not to exceed 14 percent by volume.

~~*Bona fide* means made or carried out in good faith without fraud or deceit, acting in good faith without fraud or deceit.~~

Establishments means any places of business where alcoholic beverages are sold, served or permitted to be served or consumed, and licensed under the division of alcoholic beverages and tobacco.

License means the right to sell beer and wine.

Liquor includes any and all distilled or rectified spirits, brandy, rum, gin, cordial or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

Municipality means the incorporated area of the Town of Hilliard.

Person includes natural persons as well as legal and business entities.

Private Clubs refers to historic American Legion Posts in Florida, and other veterans', fraternal, or benevolent organizations of national scope.

Public places shall be deemed to include all privately owned properties set aside to be used for public access and use and exposed to public view.

Restaurant means any business or establishment licensed by the state hotel and restaurant commission which obtains the majority of its annual gross income from the sale of food and nonalcoholic beverages prepared, served and consumed on the premises. For purposes of this Chapter, *Restaurant* does not include or refer to Private Clubs.

Sale means any transfer of an alcoholic beverage for a consideration, and gift of an alcoholic beverage in connection with or as a part of a transfer of property, other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage or permitting an alcoholic beverage to be served or consumed in any place holding a license under the division of alcoholic beverages and tobacco.

License means the right to sell beer and wine.

Vendor means any person, ~~firm or corporation~~ selling or offering for sale or keeping with the intention of selling beer or wine as defined herein.

Wine means the product of the normal alcoholic fermentation of fresh fruit with the usual treatment and necessary additions to correct defects, including champagne, sparkling and fortified wines of any alcoholic content not to exceed 14 percent by volume.

Sec. 6-2. - License required.

(a) From and after the date when this article becomes effective, no person shall engage in, manage, operate or cause to be operated the business of vendor, as defined hereto, without first procuring a town license as herein provided and pay the amount hereinafter fixed and required by this article. ~~He~~ Such person shall make sworn application to the town council through the town clerk, which application shall show the name, occupation and place of business, together with such information as may be required by the town council. A copy of the approved state application and background check shall be provided to the town upon applying for a town license.

(b) Such application, together with a notice as to when said application will be considered by the town council, shall be advertised in a newspaper of general circulation and posted at the town hall for a period of two weeks immediately prior to the date of the hearing thereof, at which time any person interested may appear and object to the granting of said license to said applicant. Thereafter, the town council shall consider said application and either grant or reject the same according to its best judgment and discretion.

(c) Where such applicant shall have been issued a license under this article or prior ordinances and such licenses and continuations thereof have not been revoked and ~~his~~ the qualifications not impaired, such applicant shall be entitled to receive licenses for succeeding years as a matter of course by application to the town clerk.

Sec. 6-5. - Issuance to persons convicted of felony prohibited.

No license shall be issued under the terms of this article to any person convicted of a felony, or to any legal or business entity which has among its officers, shareholders, directors, members, or partners a person who has been convicted of a felony.

Sec. 6-6. - Structural requirements.

Licensed vendors shall be required where alcoholic beverages are sold for on-site consumption with meals in restaurants:

(1) Not to display any exterior alcoholic beverage signs. Signs visible from the exterior shall be limited to a maximum of 20 percent of the gross glass area for advertising alcoholic beverages.

(2) Minimum seating capacity for 50 patrons.

(3) Adequate screening and buffering consisting of planted green space and a solid wall or privacy fence at least six feet in height which creates a visual barrier shall be erected by the ~~owner~~ establishment prior to the exercise of any use permitted in a commercial district to separate commercial areas from residential areas.

Sec. 6-8. - Separate license for each location.

From and after the date of adoption of the ordinance from which this article is derived, no person, ~~firm or corporation~~ shall engage in or carry on or conduct the business of vendor, rectifier, winery or club without first having obtained a separate annual license for each location in the town.

Sec. 6-11. - Proximity to school or church.

(a) No vendor of alcoholic beverages shall sell alcoholic beverages within 500 feet of any established church, except that this prohibition does not apply to a licensed vendor who is located in a general commercial district C-1 or a manufacturing district M-1. A church is a body of believers but for the purposes of this section, the term established church means a building used principally as a place wherein persons regularly assemble for religious worship. The term church is not meant to include day care centers and community recreation facilities. In addition, nothing in this section shall be construed to prohibit the establishment of a church within 500 feet of a vendor selling alcoholic beverages except that the distance restriction set forth herein shall not apply to a licensed vendor if it otherwise complied with this section before the establishment of a church within 500 feet of it.

(b) No vendor of alcoholic beverages shall sell alcoholic beverages within 500 feet of any public or private elementary school, middle school, or secondary school except a licensed vendor who meets the following requirements:

(1) The vendor is located in a general commercial district C-1 or a manufacturing district M-1;

(2) The vendor is licensed as either (i) a restaurant, which derives at least 51 percent of its gross revenues from the sale of food and nonalcoholic beverages, or (ii) a private club, and

(3) The Town Council approves of such location pursuant to the strict dictates of F.S. § 562.45, as promoting the public health, safety, and general welfare of the community.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

Section 4. Any and all ordinances or parts of ordinances in conflict herewith be and

the same are hereby repealed.

Section 5. This Ordinance shall become effective upon the passage of this Ordinance.

ADOPTED THIS 6th DAY OF July, 2017.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seal the 6th day of July, 2017.

Signed, sealed and delivered in the presence of:

TOWN OF HILLIARD, FL

By:

John P. Beasley
Council President

Attest:

Lisa Purvis
Town Clerk

Approved:

Cris McConnell
Mayor

Approved as to legal form:

Sherri L. Renner
Town Attorney

Date of Town Council First Reading: June 1, 2017
Dates of Town Council Publications: June 15, 2017
Dates of Town Council Public Hearings: July 6, 2017
Date of Town Council Second Reading: July 6, 2017
Date of Town Council Final Passage: July 6, 2017