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**BEFORE THE BOARD OF COUNTY
COMMISSIONERS MARTIN COUNTY, FLORIDA**

ORDINANCE NUMBER ____

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA,
AMENDING CHAPTER 5, ALCOHOLIC BEVERAGES,
GENERAL ORDINANCES, MARTIN COUNTY CODE,
PROVIDING FOR APPLICABILITY, CONFLICTING
PROVISIONS, SEVERABILITY, FILING WITH THE
DEPARTMENT OF STATE, CODIFICATION AND AN
EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Martin County (the Board) is authorized pursuant to Sections 1 and 6 of Article VIII, Constitution of the State of Florida, and Chapter 125, Florida Statutes, to adopt ordinances; and

WHEREAS, the Board has determined the importance of promoting the health, safety and welfare of the citizens of the County; and

WHEREAS, Chapter 5, Alcoholic Beverages, General Ordinances, identifies the zoning districts in which the sale of alcoholic beverages is permitted; and

WHEREAS, Article 12 of the Martin County Land Development Regulations has created six new Redevelopment Zoning Districts which should be addressed within Chapter 5; and

WHEREAS, this proposed amendment of Chapter 5, Alcoholic Beverages, General Ordinances, has received a public hearing before the Board of County Commissioners.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS, MARTIN COUNTY, FLORIDA, THAT:**

PART 1: AMENDMENT OF CHAPTER 5, ALCOHOLIC BEVERAGES, GENERAL ORDINANCES.

Section 5.3., Location restrictions on alcoholic beverage sales, is hereby amended as follows:

The sale of alcoholic beverages in the unincorporated areas shall be restricted as follows:

5.3.A. *Sales restricted to certain zoning districts.*

1. *Off-premises consumption.* The sale of alcoholic beverages only for off-premises consumption shall be permitted only in the following zoning districts if all applicable requirements of the particular zoning district are met:
 - a. Limited, general, rural and wholesale business and liberal multiple-family districts (HB-1, B-1, B-2, B-3 and R-3A).
 - b. The sale of beer for off-premises consumption only by vendors holding off-premises sales licenses is not subject to zoning in accordance with F.S. §563.02(1)(a).
 - c. Industrial districts (M-1, M-2, M-3).
 - d. Planned unit development (PUD) districts, but only when specified in the PUD agreement.
 - e. Commercial and industrial districts (CO, COR-1, COR-2, LC, CC, GC, WRC, WGC, LI, GI), but only when alcoholic beverages are sold by the holder of a special license issued pursuant to F.S. §561.20(2)(a) ~~or section 5.1 of this Code~~, or ~~only~~ when such sales are restricted to beer and wine.
 - f. The Jensen Beach, Rio, Old Palm City, Hobe Sound, Port Salerno and Golden Gate Redevelopment Zoning Districts when alcoholic beverages are sold by the holder of a special license issued pursuant to F.S. §561.20(2)(a) or when such sales are restricted to beer and wine, provided such sales are consistent with the Table of Use Groups Permitted by subdistrict for the redevelopment zoning district.
2. *On-premises consumption.* The sale of alcoholic beverages for on-premises consumption shall be permitted only in the following zoning districts if all applicable requirements of the particular zoning district are met:
 - a. Limited, general and wholesale business districts (H-1, B-1 and B-2).
 - b. Planned unit development (PUD) districts, but only when specified in the PUD agreement.

- c. Hotel-motel and multiple-family residential districts (R-3, R-3A, R-4, HB-1A and HB1-AA), but only when sold by the holder of a special license issued pursuant to F.S. §561.20(2)(a) ~~or section 5.1 of this Code~~, or ~~only~~ when such sales are restricted to beer and wine.
- d. Commercial and industrial districts (CO, COR-1, COR-2, LC, CC, GC, WRC, WGC, LI, GI), but only when alcoholic beverages are sold by the holder of a special license issued pursuant to F.S. §561.20(2)(a) ~~or section 5.1 of this Code~~, or ~~only~~ when such sales are restricted to beer and wine.
- e. The land within the public service district (PS) which comprises Jonathan Dickinson State Park, but only when sales are restricted to beer and wine. Such location shall not be required to meet the distance requirements specified in sections 5.3.B. and 5.3.C.
- f. The land within the public service district (PS-1) which comprises the Elliot Museum at 825 N.E. Ocean Boulevard or which comprises the Kane Center at 900 S.E. Salerno Road. Such locations shall not be required to meet the distance requirements specified in sections 5.3.B. and 5.3.C.
- g. The land within the public service districts (PS), (PS-1), and (PS-2), the public recreation district (PR), and the public airport facilities district (PAF) which comprises County parks, the fairgrounds for the County fair held pursuant to Chapter 616, F.S., and Martin County Airport/Witham Field. Such locations shall not be required to meet the distance requirements specified in section 5.3.B., 5.3.C., and 5.3.D. County parks must comply with the requirements of section 17.12, General Ordinances, Martin County Code.
- h. The Jensen Beach, Rio, Old Palm City, Hobe Sound, Port Salerno and Golden Gate Redevelopment Zoning Districts when alcoholic beverages are sold by the holder of a special license issued pursuant to F.S. §561.20(2)(a) or when such sales are restricted to beer and wine, provided such sales are consistent with the Table of Use Groups Permitted by subdistrict for the redevelopment zoning district.

5.3.B. *Sales restricted within 300 feet of houses of worship, parks or playgrounds; exceptions.* No sales of alcoholic beverages for on-premises consumption shall be permitted within 300 feet of an active house of worship, park or playground. The distance between houses of worship and licensed premises shall be measured on a straight line connecting the nearest point of the building of the house of worship to the nearest point of the building of the licensed premises; while the distance between parks or playgrounds and licensed premises shall be

measured on a straight line connecting the nearest point of the boundary of the park or playground to the nearest point of the building of the licensed premises. This subsection shall not be applicable to sales by any license holder whose use of the premises for such sales existed before the establishment of the use of such house of worship, park or playground, or which use is begun within one year following such establishment.

5.3.C. *Sales restricted within 500 feet of schools.* No sales of alcoholic beverages for on-premises consumption shall be permitted within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school. The distance between school property and licensed premises shall be measured on a straight line connecting the nearest point of the school property to the nearest point of the building of the licensed premises. This subsection shall not be applicable to sales by a license holder whose use of the premises for such sales existed before the establishment of the use of such school, nor to premises licensed for the sale of alcoholic beverages on or before July 1, 1999, nor to locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to F.S. ch. 509.

5.3.D. *Sales restricted within 50 feet of any dwelling or residential district.* No sales of alcoholic beverages for on-premises consumption within any of the specified hotel-motel or business districts shall be permitted within 50 feet of any residential district, and no such sales shall be permitted in any district within 50 feet of a dwelling. Such distances shall be measured on a straight line from the nearest point of the boundary line of the lot on which such dwelling is located or the boundary line of the residential zoning district to the nearest point of the building of the licensed premises. This subsection shall not be applicable to sales on licensed premises in existence on the date of adoption of this subsection.

5.3.E. *Waiver of distance restrictions.* Required distances listed in subsections 5.3.B, 5.3.C, and 5.3.D, may be waived by the Board of County Commissioners only after a public hearing is held pursuant to the public hearing notification requirements of sections 10.6.D and 10.6.E, Land Development Regulations, Martin County Code, at which the board approves the locations as promoting the public health, safety and general welfare of the community. Any such waiver shall be limited to the applicant requesting the waiver. The waiver shall not apply to any future transfer of the applicant's alcoholic beverage license without the consent of the Board of County Commissioners granted at a public hearing pursuant to the requirements set forth herein. In granting a waiver to the distance requirements for the on-

premises consumption of alcoholic beverages, the Board of County Commissioners may require such conditions as will, in its judgment, substantially ensure that negative impacts are not generated from any site requesting a waiver. The board may revoke a waiver at any time upon determining, after a public hearing to consider all relevant facts, that impacts from the approval of any such waiver are negatively affecting the public health, safety, and general welfare of the community.

5.3.F. *Exception for County facilities.* Notwithstanding anything to the contrary in this section, alcoholic beverages may be sold for on-premises consumption within a County facility by a nonprofit civic organization during a temporary special event upon approval by the County Administrator, or his or her designee, and upon compliance with all other applicable laws, ordinances and regulations and upon receipt of all applicable permits. For purposes of this section, the term "County facility" shall mean any building or real property owned by Martin County, other than those properties regulated under section 17.12, General Ordinances, Martin County Code, the fairgrounds for the County fair held pursuant to Chapter 616, F.S., and Martin County Airport/Witham Field.

5.3.G. *Exception for nonprofit civic organizations; temporary permits.* Notwithstanding anything to the contrary in this section, alcoholic beverages may be sold in any zoning district by a nonprofit civic organization only for on-premises consumption, subject to compliance with all provisions of F.S. §561.422.

5.3.H. *Exception for redevelopment zoning districts.*

1. When the licensed premises is located in a redevelopment zoning district and is also licensed as a public food services establishment pursuant to F.S. ch. 509, which derives at least 51 percent of its gross revenues from the sale of food and nonalcoholic beverages, the location restrictions identified in sub-sections 5.3.B., 5.3.C., and 5.3.D. shall not apply.
2. When the licensed premises is located in a Core or Waterfront subdistrict, the location restrictions identified in sub-sections 5.3.B., 5.3.C., and 5.3.D. shall not apply.
3. When the licensed premises is located in a General, Corridor, Railroad Corridor, or Industrial subdistrict, the location restrictions in sub-sections 5.3.B. and 5.3.C. shall not apply.
4. The prohibition on the sale of alcoholic beverages for on-premises consumption within 50 feet of a dwelling provided in sub-section

5.3.D. shall not apply to a residential dwelling located in the Corridor, Railroad Corridor, or Industrial subdistrict.

PART 2: APPLICABILITY OF ORDINANCE.

This Ordinance shall be applicable throughout the unincorporated area of Martin County.

PART 3: CONFLICTING PROVISIONS.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict except for ordinances concerning either adoption or amendment of the Comprehensive Plan.

PART 4: SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

PART 5: FILING WITH THE DEPARTMENT OF STATE.

The clerk shall be and is hereby directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of state via electronic transmission.

PART 6: CODIFICATION.

Provisions of this ordinance shall be incorporated into the Martin County Code of Ordinances. The word "ordinance" may be changed to "article," "section," or other word, and the sections of this ordinance may be renumbered or re-lettered.

PART 7: EFFECTIVE DATE.

This ordinance shall take effect upon filing with the Office of Secretary of State.

PASSED AND DULY ADOPTED THIS 14th DAY OF SEPTEMBER, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS,
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN,
CLERK OF THE CIRCUIT
COURT AND COMPTROLLER

BY: _____
STACEY HETHERINGTON, CHAIR

APPROVED AS TO FORM AND
LEGAL SUSUFFICIENCY:

BY: _____
SARAH W. WOODS
COUNTY ATTORNEY