

ORDINANCE 2025-11

AN ORDINANCE OF THE CITY OF MADEIRA BEACH FLORIDA, AMENDING CHAPTER 110 (ZONING), ARTICLE VI. (SUPPLEMENTARY DISTRICT REGULATIONS), DIVISION 6. (ALCOHOLIC BEVERAGES) OF THE CITY'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR JOHN'S PASS VILLAGE ACTIVITY CENTER ZONING DISTRICT REGULATIONS; PROVIDING FOR PLANNED DEVELOPMENT ZONING DISTRICT REGULATIONS; REMOVING REFERENCES TO C-2, JOHN'S PASS MARINE COMMERCIAL; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance 2024-09 established the C-1, John's Pass Village Activity Center Zoning District which includes Character Districts to further define permitted uses and unique development patterns in the John's Pass Village Activity Center; and

WHEREAS, Chapter 110 – Zoning Article VI. - Supplementary District Regulations Division 6. Alcoholic Beverages does not reference the Character Districts in the C-1, John's Pass Village Activity Center Zoning District; and

WHEREAS, Chapter 110 – Zoning Article VI. - Supplementary District Regulations Division 6. Alcoholic Beverages does not reference alcohol use regulations for properties zoned PD, Planned Development; and

WHEREAS, Ordinance 2024-12 deleted the C-2, John's Pass Commercial Zoning District; and

WHEREAS, City staff has recommended revising Division 6 Alcoholic Beverages to reflect the changes made by Ordinances 2024-09 and 2024-12; and

WHEREAS, the recommended amendments to the Land Development Regulations was presented to and reviewed by the Planning Commission at a public hearing; and

WHEREAS, the Planning Commission has recommended approval of the proposed amendments; and

WHEREAS, the Board of Commissioners received input from the public at two public hearings to consider the approval of the recommended changes and the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Chapter 110 (Zoning) Article VI. (Supplementary District Regulations) Division 6. (Alcoholic Beverages) of the Land Development Regulations of the City of Madeira Beach is hereby amended to read as follows:

Sec. 110-526. Definitions.

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

Alcoholic beverage means the same as defined in Florida Statutes § 561.01 (~~2001~~2024).

Beer means the same as defined in Florida Statutes § 563.01 (~~2001~~2024).

Establishment means a building or other structure within which business is conducted on a regular basis.

Liquor means the same as defined in Florida Statutes § 565.01 (~~2001~~2024).

Sale of alcoholic beverages means both sale for the purpose of on the premises consumption and package sales unless the context clearly indicates otherwise.

Wine means the same as defined in Florida Statutes § 564.01 (~~2001~~2024).

Sec. 110-527. Classifications.

- (a) *Package store, beer and wine.* A package store, beer and wine, is an establishment where beer and wine are sold in sealed containers only for consumption off the premises.
- (b) *Retail store, beer and wine.* A retail store, beer and wine, is an establishment where beer and wine are sold in sealed containers only for consumption off the premises

and more than 50 percent of the establishment's gross sales are attributable to the sale of nonalcoholic items.

- (c) *Package store, beer, wine and liquor.* A package store, beer, wine and liquor, is an establishment where beer, wine and liquor are sold in sealed containers only for consumption off the premises.
- (d) *Restaurants.* A restaurant is an establishment where beer, or beer and wine, or beer, wine and liquor are sold for consumption on the premises, or for consumption on the premises and package sales, in connection with a restaurant business wherein the combined gross sales of the business operation are more than 60 percent attributable to the sale of food and nonalcoholic items.
- (e) *Bar.* A bar is an establishment where beer, or beer and wine, or beer, wine and liquor are sold for consumption on the premises, or for consumption on the premises and package sales.
- (f) *Club.* A club is an establishment which is a chartered club where beer, wine and liquor are sold or offered to members for consumption on the premises only and such beer, wine and liquor cannot be sold over the counter to nonclub members.
- (g) *Charter boats.* A charter boat is a vessel primarily engaged in the business of taking passengers for hire where beer, or beer and wine, or beer, wine and liquor are sold for consumption while the vessel is engaged in the transportation of passengers, and more than 50 percent of the business income is derived from the sale of nonalcoholic items or the transportation of passengers.

Sec. 110-528. Prohibition.

No premises shall be used, nor a use or occupancy permit issued for the sale of alcoholic beverages, for package sales, or for on the premises consumption, unless approved by the board of commissioners pursuant to the provisions of the land development regulations. All applications under the land development regulations shall be considered at a regular meeting of the board of commissioners.

Sec. 110-529. Conformity with city zoning code.

- (a) No application for permission to use premises for the sale of alcoholic beverages shall be granted unless the property which is subject to the application is within a zoning district under the city zoning code which permits such uses.
- (b) No application for permission to use vessels for the sale of alcoholic beverages shall be granted unless the property to which the boat is docked and from which it boards and unloads passengers is within a zoning district under the city zoning code which permits such use.

Sec. 110-530. Alcoholic beverage districts, restrictions and distance requirements.

- (a) *R-1 and R-2 Zoning dDistricts.* No premises shall be used, nor shall a use and occupancy permit be issued for the sale of alcoholic beverages in any district zoned R-1 or R-2 within the city.

(b) R-3 Zoning District. Only restaurant establishments shall be allowed as defined in section 110-527 shall be allowed in any district zoned R-3 within the city.

(c) C-1, John's Pass Village Activity Center Zoning District.

(1) Classification permitted.

- i. Traditional Village, Boardwalk, Commercial Core, and the east side of Gulf Boulevard Transitional Character Districts: Package stores (beer and wine, retail stores (beer and wine), package stores (beer, wine and liquor), restaurants, bars and clubs are permitted.
- ii. John's Pass Resort, Low Intensity Mixed Use, and the west side of Gulf Boulevard Transitional Character Districts: Only restaurants, as defined in section 110-527, establishments shall be permitted.

(2) Distance requirements. Except as otherwise provided, no establishment classified as a package store (beer and wine), package store (beer, wine and liquor), club or a bar shall be located within 500 feet of property occupied by an established church, synagogue, temple or place of religious worship, public or private school operated for the instruction of minors, or youth recreation (community) center. The distance provisions shall not apply to restaurants. Furthermore, the distance provision shall not apply to bars or clubs within a hotel of 50 rooms or more.

(3) Measurement of distance. The distance set forth in subsection (c)(2) shall be a straight-line distance from the property line occupied by the enumerated uses in subsection (c)(2) and the property line to be occupied by the establishment applying for permission to sell alcoholic beverages.

(de) ~~C-1, C-2~~, C-3, and C-4 Zoning Districts.

- (1) Classifications permitted. Package stores (beer and wine, retail stores (beer and wine), package stores (beer, wine and liquor), restaurants, bars and clubs shall be permitted in C-3 and C-4 Zoning Districts. ~~shall be permitted in any district zoned C-1, C-2, C-3 or C-4 within the city.~~
- (2) Distance requirements. Except as otherwise provided, no establishment classified as a package store (beer and wine), package store (beer, wine and liquor), club or a bar shall be located within 5300 feet of property occupied by an established church, synagogue, temple or place of religious worship, public or private school operated for the instruction of minors, or youth recreation (community) center. The distance provisions shall not apply to restaurants. Further the distance provision shall not apply to bars or clubs within a hotel of 50 rooms or more.
- (3) Measurement of distance. The distance set forth in subsection (d)(2) of this section shall be a straight-line distance from the property line occupied by the enumerated uses in subsection (d)(2) of this section and the property line to be occupied by the establishment applying for permission to sell alcoholic beverages.

(e) PD Zoning District

(1) Properties that are rezoned to the PD Zoning District have the same restrictions for alcoholic beverages as the zoning district prior to rezoning to PD Zoning District unless otherwise specified at the time of PD Zoning adoption.

Sec. 110-531. Application for zoning of lot for sale of alcoholic beverages.

Whenever any owner, lessee or tenant desires to have any lot, plot or tract of land zoned for the sale of alcoholic beverages, such a person shall complete and file their application form with the city manager or their his designee designate, which application shall contain the following:

- (1) The name and address of the applicant, and the owner's written approval if property ownership is other than the applicant. The name and address of the owner of the alcoholic beverage license, if any.
- (2) The legal description or survey of property describing the portion of the lot, plot or tract of land to be utilized for the sale of alcoholic beverages.
- (3) A site plan shall be submitted with the application which shall show the proposed building location, size and height, off-street parking facilities and ingress and egress from adjoining streets. The applicant shall also submit a frontal (street side) elevation or an architectural rendering or recent photograph of the main structure.
- (4) Applications for package stores (beer and wine), package stores (beer, wine and liquor), clubs, and bars, requires a signed certificate and drawing prepared by a state registered engineer or land surveyor depicting the location of an established church, synagogue, temple or place of religious worship, public or private school operated for the instruction of minors, and youth recreation (community) centers within 500 feet. The drawing shall carry the following certification:

"This is to certify that all the measurements are in compliance with the provisions of this Code and are true and accurate portrayals of all actual distances."

~~This requirement shall also apply only to package stores (beer and wine), package stores (beer, wine and liquor), clubs, and bars.~~
- (5) The alcoholic beverage classification desired for the lot, plot or tract shall be one of the classifications set forth in section 110-527.
- (6) Payment of the non-refundable application fee listed in the fees and collection procedure manual.
- (7) At the time of application, the applicant shall address in writing the five factors enumerated in section 110-532.

Sec. 110-532. Consideration of alcoholic beverage application.

When considering the alcoholic beverage application, the board of commissioners shall consider the following factors:

- (1) The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.
- (2) The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.
- (3) Whether or not the proposed use is compatible with the particular location for which it is proposed.
- (4) Whether or not the proposed use will adversely affect the public safety.
- (5) No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.

Sec. 110-533. Reconsideration of alcoholic beverage zoning.

- (a) A similar application for alcoholic beverage zoning denied by the board of commissioners shall not be resubmitted for reconsideration by the board of commissioners within 12 months of the date of the final action on the previous application unless the applicant demonstrates to the board of commissioners that substantial changes have occurred in the property or in the area adjacent to the subject site which would have a bearing on the consideration of the alcoholic beverage zoning of the site.
- (b) In the event any applicant shall desire reconsideration under subsection (a) of this section, the applicant shall submit ~~their~~ ~~his~~ application for such alcoholic beverage zoning to the city manager or ~~their designee~~ ~~his designate~~ in the usual manner and pay the application fee listed in the fees and collection procedure manual. If, in the judgment of the board of commissioners, substantial changes have occurred, the board of commissioners shall then set the application for public hearing. In the event of a negative finding by the board of commissioners, the application will not be heard.
- (c) An application for alcoholic beverage zoning of lesser intensity will not be deemed a similar application as stated in subsection (a) of this section and such application can be made at any time.

Sec. 110-534. Change of alcoholic beverage zoning.

- (a) Properties that are alcoholic beverage zoned cannot change the alcoholic beverage classification to a license providing greater intensity nor provide a change in the nature or use of the property to a different alcoholic zoning classification, nor enlarge the area for the sale of alcoholic beverages without filing a new petition for alcoholic beverage zoning with the board of commissioners in accordance with the requirements contained in this division.

- (b) The city manager or ~~their~~ ~~his~~ designee may approve, approve with conditions, or deny alcoholic beverage zoned classification that provides for an alcoholic beverage license of lesser intensity or a reduction in the area used for the sale of alcoholic beverages; when the business establishment already holds an alcoholic beverage license approved by the board of commissioners. The city manager or ~~their~~ ~~his~~ designee shall consider the following factors in the decision:
- (1) The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.
 - (2) The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.
 - (3) Whether or not the proposed use is compatible with the particular location for which it is proposed.
 - (4) Whether or not the proposed use will adversely affect the public safety.
 - (5) No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.

If the requesting party is in disagreement with the decision reached by the city manager or ~~their~~ ~~his~~ designee, an appeal to the board of commissioners is available; and ~~the~~ board of commissioners' decision shall be binding.

Sec. 110-535. Expansion of alcoholic beverage zoning.

Properties that are alcoholic beverage zoned cannot be expanded more than ten percent over the original approved square footage or approved seating count, whichever is more ~~without restrictive without~~ filing a new petition for alcoholic beverage zoning in accordance with the requirements contained in this division. An applicant applying for an expansion that does not require a new petition for alcoholic beverage zoning shall provide a revised site plan showing the expansion. The site plan shall show that the expansion meets all applicable sections of the Madeira Beach Code of Ordinances.

Sec. 110-536. Existing wet zone of properties.

Properties on which the sale of intoxicating beverages ~~are~~ ~~is~~ permitted under any ordinance of the city existing on the effective date of the ordinance from which the land development regulations derived, and which become nonconforming uses by the Code shall be subject to the provisions of the land development regulations pertaining to nonconforming uses.

Sec. 110-537. Revocation of alcoholic beverage zoning.

Any alcoholic beverage zoning may be revoked by the board of commissioners upon finding a violation of the land development regulations, loss of state license, or the failure to conduct the sale of alcoholic beverages for any six-month period as demonstrated by not having a valid city occupational license for such use during this ~~6-~~month period. Any

such action shall only be taken after conducting a hearing in the same manner as for the original application. In addition, affected property owners and/or operators shall be notified by certified mail, return receipt requested, which shall be transmitted at least 15 days prior to the scheduled public hearing date.

Sec. 110-538. Record keeping and reporting requirements.

Establishments classified as retail stores (beer and wine), or restaurants shall maintain books and records reflecting the gross sale of food and nonalcoholic items and the gross sale of alcoholic beverages and shall provide such books and records to the city within 30 days upon request. Failure to keep the books and records required in this section shall be adequate grounds for the board of commissioners to revoke the alcoholic beverage zoning classification of the property upon which the business operates.

Sec. 110-539. Application processing and fees.

- (a) When and at such time as the application has been accepted, the city clerk shall notify abutting property owners within 300 feet of the property, setting forth the time, date and place of the application consideration by the board of commissioners. This notice will be 15 days prior to the regular meeting of the board of commissioners. Notice shall also be posted on the property itself in the same manner. Failure to notify all of the abutting property owners as shown on the records of the county property appraiser office shall not constitute grounds for re-advertising, conducting additional meetings, and shall not affect any action or proceeding on the application for alcoholic beverage sales.
- (b) The city manager or their designee is authorized to charge the application fee listed in the fees and collection procedure manual for processing the application.

Sec. 110-540. Grandfathering business establishments engaged in the sale of alcoholic beverages.

- (a) The business establishments engaged in the sale of alcoholic beverages, or for which applications have been filed with the city for permits to engage in the sale of alcoholic beverages, in areas permitted by ordinances existing at the time of the passage of the ordinance from which this chapter is derived where such areas or business establishments do not meet the qualifications of section 110-530 shall be such areas or business established and to continue so long as the occupational license is renewed for each fiscal year (October 1 through September 30) and the state alcoholic beverage license is renewed on a continuous basis from the time of initial approval of the license.
- (b) Nothing contained in this section shall be construed to allow any establishment holding a license prior to adoption of the ordinance from which this chapter is derived to change the type of license without meeting all ordinance requirements in effect at the time of the application for a new type of license.

Section2. For purposes of codification of any existing section of the Madeira Beach Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section3. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section4. In the event a court of competent jurisdiction finds any part or provision of the Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

Section5. The Codifier shall codify the substantive amendments to the Code of Ordinances of the City of Madeira Beach contained in Section 1 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section6. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2025.**

Anne-Marie Brooks, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

APPROVED AS TO FORM:

Thomas J. Trask, City Attorney

PASSED ON FIRST READING: _____

PUBLISHED: _____

PASSED ON SECOND READING: _____