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COLLIER COUNTY FLORIDA

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DEPARTMENT OF STATE  
TALLAHASSEE FLORIDA

AN ORDINANCE AMENDING ORDINANCE NO. 82-2, THE COMPREHENSIVE ZONING REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, BY AMENDING SECTION 8.11, LOCATION REQUIREMENTS FOR USES INVOLVING INTOXICATING BEVERAGES, TO SET FORTH THE PROCEDURE AND CRITERIA FOR WAIVER OF PART OR ALL OF THE MINIMUM DISTANCE REQUIREMENT BETWEEN AN ESTABLISHMENT ENGAGING IN THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES AND AN ESTABLISHED CHURCH, SCHOOL, PUBLIC PARK OR PLAYGROUND; AND BY PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners, in Section 8.11 of the Collier County Zoning Ordinance, has enacted certain distance requirements between establishments providing on-site sale and consumption of alcoholic beverages and churches, schools, public parks and playgrounds; and

WHEREAS, the Board acknowledges that certain man-made and natural boundaries, structures and other features exist which may offset and reduce the minimum spacing requirements; and

WHEREAS, the Board does not wish to create unnecessary hardship for business within Collier County;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:

Section One:

Section 8.11 of Ordinance No. 82-2, the Zoning Ordinance of Collier County is hereby amended as follows:

8.11 Locational Restrictions For Use Involving Intoxicating Beverages:

a. Sale of Alcoholic Beverages: The sale of alcoholic beverages for consumption on premises will not be permitted at any location until such location has been approved by the Zoning Director. Prior to action for sale of alcoholic beverages for consumption on premises at any location, he shall find that the following requirements have been met:

- 1) No such use shall be located within five hundred (500) feet of any established school, church, public park, or playground unless a waiver of said distance requirement

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Words underlined are added; Words ~~struck-through~~ are deleted.

is granted by Board resolution pursuant to Subsection 8.11.(c). This does not include beach access points.

The distance of five hundred (500) feet shall be measured as the shortest distance between the lot on which the school, church, public park, or playground is located and the lot on which the alcoholic beverages are to be sold, except that establishments located in shopping centers shall be measured to the outer wall of the establishment.

- 2) No such use shall be located within five hundred (500) feet of any existing establishment which sells alcoholic beverages for consumption on premises.

The distance of five hundred (500) feet shall be measured as the shortest distance between the lot on which the existing establishment is located and the lot on which the alcoholic beverages are to be sold, except that establishments located in shopping centers shall be measured to the outer wall of the establishment.

- 3) The erection of any school, church, public park or playground within five hundred (500) feet of an establishment which offers the sale of alcoholic beverages for consumption on premises shall not cause such establishment to become nonconforming.
- 4) The applicant shall submit a plot plan showing the following:
  - (a) Dimensions of subject premises.
  - (b) All vehicular points of ingress and egress.
  - (c) Compliance with all requirements of this Ordinance including landscaping, off-street parking, buffer areas, and location and size of all signs.

- b. Expiration of Zoning Approval. The Zoning Director's approval for the sale of alcoholic beverages for consumption on premises, granted pursuant to Section 8.11 of this Ordinance, shall expire after the below prescribed periods of time and shall thereafter become null and void:

- 1) In the case of an existing structure, zoning approval

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shall expire six (6) months from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. For purposes of this section, operation shall be defined as the sale of alcoholic beverages in the normal course of business.

- 2) In the case of a new structure, zoning approval shall expire one (1) year from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. However, if substantial construction is completed, the Zoning Director may grant one (1) extension up to six (6) months.

c. The Board of Zoning Appeals may, by resolution, grant waiver of part or all of the minimum distance requirement set forth in Section 8.11(a)(1) if it is demonstrated by the applicant and determined by the Board that the site proposed for the sale and consumption of alcoholic beverages is separated from an established school, church, public park or playground by natural or man-made boundaries, structures or other features which offset or limit the necessity for such minimum distance requirement. The Board's decision to waive part or all of the distance requirement shall be based upon the following factors:

- 1) The nature and type of natural or man-made boundary, structure or other feature lying between the proposed establishment and an existing school, church, public park or playground which is determined by the Board of Zoning Appeals to lessen the need for the total 500 foot distance requirement. Such boundary, structure or other feature may include, but not be limited to, lakes, marshes, non-developable wetlands, designated preserve areas, canals, and major rights-of-way.
- 2) The paths of vehicular and pedestrian traffic which could be taken between the establishment and the church, school, public park or playground.

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3) The hours of operation and the noise and light which could potentially be generated from the premises selling alcoholic beverages.

4) Whether alcoholic beverages will be sold in conjunction with food or whether the establishment is primarily engaged in the sale of alcoholic beverages as a primary use.

Prior to consideration of such waiver by the Board, the applicant shall provide to the Zoning Director or, if applicable, the Development Services Director, a written application for waiver of the distance limitation on an application form supplied by the Community Development Division, including a legal description of all applicable structures with a survey or boundary sketch to scale, and such other information which the applicant can supply which would assist the Board in its evaluation pursuant to the factors set forth above. Upon receipt of the applicant's petition and the applicable petition fee established by the Board, a public hearing date shall be scheduled before the Planning Commission for recommendation on the proposed waiver and before the Board. The applicant shall notify, by certified mail, the owners or representatives of the subject school, church, public park or playground, of the petition at least fifteen (15) days prior to each of the public hearings and evidence of such notification shall be supplied to the Community Development Division.

e- d. The following uses shall be exempted from the distance limitations of Paragraph ~~11-a-(2)~~ 8.11.a.(2) of this Subsection, but shall comply with all other requirements of this Subsection.

- 1) Any restaurant deriving at least fifty-one (51%) percent of its gross revenue from the sale of food and non-alcoholic beverages.
- 2) Any motel and/or hotel with one hundred (100) or more guest rooms.
- 3) Any private club, golf club, country club, civic or

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fraternal club may serve alcoholic beverages for consumption on premises when such service is incidental to the main use and for the exclusive use of the members, tenants, and/or guests of the facility.

d. e. Any owner or operator of an establishment approved under this Subsection to sell any alcoholic beverages for consumption on premises shall upon written demand of the Zoning Director, make or cause to be made under oath a statement itemizing what percentage of his gross receipts are from the sale of alcoholic beverages.

Section Two. Conflict and Severability.

If any phrase or portion of this Ordinance is 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.

Section Three. Effective Date.

This Ordinance shall become effective upon receipt of notice from the Secretary of State that this Ordinance has been filed with the Secretary of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 25<sup>th</sup> day of July, 1989.

ATTEST:  
JAMES C. GILES, Clerk  
*James C. Giles*  
Clerk

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: *Burt L. Saunders*  
BURT L. SAUNDERS, Chairman

Approved as to form and legal sufficiency:

*Kenneth B. Cuyler*  
Kenneth B. Cuyler  
Collier County Attorney

This ordinance filed with the Secretary of State's Office the 3rd day of Aug., 1989 and acknowledgement of that filing received this 3rd day of Aug., 1989  
*James Chesnut*  
County Clerk

STATE OF FLORIDA    )  
COUNTY OF COLLIER   )

I, JAMES C. GILES, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

Ordinance No. 89-54

which was adopted by the Board of County Commissioners on the 25th day of July, 1989, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 1st August, 1989.

JAMES C. GILES  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners



By: Virginia Magri  
Deputy Clerk