



**BOARD OF COUNTY COMMISSIONERS**

Mayor Craig Cates, District 1  
Mayor Pro Tem Holly Merrill Raschein, District 5  
Michelle Lincoln, District 2  
James K. Scholl, District 3  
David Rice, District 4

**County Commission Meeting**  
**January 18, 2023**  
**Agenda Item Number: Q.5**  
**Agenda Item Summary #11590**

**BULK ITEM:** No

**DEPARTMENT:** Planning/Environmental Resources

**TIME APPROXIMATE:**  
9:00

**STAFF CONTACT:** Cheryl Cioffari (305) 289-2506

**AGENDA ITEM WORDING:** A Public Hearing to Consider an Ordinance Amending Monroe County Code of Ordinances Chapter 3 ("Alcoholic Beverages") to Create a Definition Section, Amend Reference(s) to License Classification Types, and Address Potential Outdoor On-Premise Consumption.

**ITEM BACKGROUND:**

Monroe County ("Board of County Commissioners", "BOCC", or the "County") has existing regulations relating to alcoholic beverages, licenses, and permits, which include(s) references to different classifications as established by the State of Florida ("State"). Over time, the classification types established by the State through the Florida Division of Alcoholic Beverages and Tobacco ("DABT") have changed, resulting in certain inconsistencies.

The proposed amendment(s) address(es) several issues including but not limited to the following three. First, the Monroe County Planning and Environmental Resources Department's ("Department") professional staff are relocating existing definitions currently located throughout Chapter 3 ("Alcoholic Beverages") to reside in a single specific location and defining alcoholic beverage sales. Second, the proposed amendment(s) remove the reference(s) to specific classification types and reference the DABT's Licenses and Permits for Alcoholic Beverages for classification types. Lastly, the professional staff's proposed amendment(s) address common situations in which the Department and/or the Monroe County Planning Commission places conditions on alcoholic beverage use permits issued to applicants proposing outdoor on-premises consumption, with or without music and entertainment.

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**PROFESSIONAL STAFF'S DRAFT CODE OF ORDINANCES TEXT AMENDMENTS**

Additions are in underlined; deletions are in ~~strike through~~. Text that has been moved is shown as deletions double underlined and deletions in ~~double strike through~~.

## Chapter 3 ALCOHOLIC BEVERAGES<sup>1</sup>

### ~~Sec. 3-1. Special beverage licenses.~~

~~All special beverage licenses issued prior to October 25, 1977, under the provisions of Laws of Fla. ch. 61-597 in this county shall be henceforth recognized as valid and shall be renewable as a matter of right so long as the holder of the license does not permit it to lapse.~~

### Sec. 3-1 Definitions.

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

~~*Alcoholic beverage* means any beverage containing one half of one percent alcohol or more by volume as determined in accordance with F.S. § 561.01(4)(b).~~

~~*Alcoholic beverage* means any beverage that contains more than one half of one percent of alcohol by volume as determined in accordance with F.S. § 561.01(4)(b), including alcohol, spirits, liquor, wine and beer or a combination of alcohol, spirits, liquor, wine and beer as defined in F.S. § 561.01(4)(a) with a nonalcoholic beverage, liquid or other ingredient.~~

*Alcoholic beverage* means distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume as determined in accordance with F.S. § 561.01(4)(a). The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water in accordance with F.S. § 561.01(4)(b).

*Alcoholic beverage sales* means the retail sale of beer, wine, or other alcoholic beverages for on- or off-premise consumption.

*Beverage law* means the provisions of F.S. Chs. 561—569.

*Commercial establishment parking lot* means any private or public open space appurtenant to a commercial establishment, that is used by the public for parking of vehicles, or pedestrian access to a commercial establishment, including driveways, parking areas, sidewalks and walkways appurtenant thereto.

*Public or semipublic area open for vehicular or pedestrian travel* means any private or public road, street, highway, right-of-way, lane, alley, parking lot, or parking area on which the public is expressly or implicitly invited to travel by motor vehicle or pedestrian means or that is otherwise open for such travel. It does not include golf courses, private driveways, or property serving a single dwelling unit.

*Shopping center* means a contiguous group of individual units, in any combination, devoted to restaurant uses, commercial retail low-intensity uses, commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of

<sup>1</sup> State law reference(s)—Alcoholic beverages, F.S. Chs. 561—568; authority of board of county commissioners to establish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law, F.S. § 125.01(1)(o).

the ownership of any of the individual office or commercial retail units, within the shopping center.

Vendor means any person or entity who owns or operates a business establishment whether as a primary or accessory use, including, but not limited to, a bar, restaurant, tavern, pub, yacht or country club, hotel, motel or other lodging establishment that sells at retail any alcoholic beverage for on-premises consumption. The term also includes any person or entity that owns and operates a liquor store, or other business establishment, including, but not limited to, grocery stores, drugstores, convenience stores and gas stations, that and/or has retail sale of alcoholic beverages.

### **Sec. 3-2. Special beverage licenses.**

All special beverage licenses issued prior to October 25, 1977, under the provisions of Laws of Fla. ch. 61-597 in this county shall be henceforth recognized as valid and shall be renewable as a matter of right so long as the holder of the license does not permit it to lapse.

### **Sec. 3-23. Hours of sale.**

- (a) Within the unincorporated limits of the county, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation of the State of Florida between the hours of 4:00 a.m. and 7:00 a.m. of the same day.
- (b) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. In addition, any person or establishment violating this section shall have revoked any previous rights granted to it by the county under section 3-6.

State law reference(s)—Regulation of the time for sale of alcoholic beverages, F.S. § 562.14.

### **Sec. 3-34. Authority to approve per event sale of alcoholic beverages.**

The county administrator may approve the per event sale of alcoholic beverages for consumption on county-owned property if the following terms and conditions are met:

- (1) The sale of the alcoholic beverages is by, or on behalf of, a nonprofit charitable organization with the profits from alcoholic beverage sales going to that organization's charitable purposes; or
- (2) The sale and consumption of alcoholic beverages is part of a social event, such as a wedding or birthday party, the duration of which may not exceed four hours; and
- (3) Depending on the size of the expected crowd, the event sponsor must agree to furnish a sufficient number of off-duty law enforcement personnel for crowd and traffic control, the number to be determined by the county administrator, and to provide evidence satisfactory to the county administrator that the law enforcement personnel have in fact been hired; and

- (4) The sponsor of the event has furnished to the county's risk manager evidence that the sponsor has obtained event liability insurance, naming the county as an additional co-insured, in an amount satisfactory to the risk manager.

**Sec. 3-45. Consumption of alcoholic beverages; possession of open containers of alcoholic beverages.**

~~(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~*Alcoholic beverage* means any beverage containing one-half of one percent alcohol or more by volume as determined in accordance with F.S. § 561.01(4)(b).~~

~~*Beverage law* means the provisions of F.S. chs. 561 — 568.~~

~~*Commercial establishment parking lot* means any private or public open space appurtenant to a commercial establishment, that is used by the public for parking of vehicles, or pedestrian access to a commercial establishment, including driveways, parking areas, sidewalks and walkways appurtenant thereto.~~

~~*Public or semipublic area open for vehicular or pedestrian travel* means any private or public road, street, highway, right-of-way, lane, alley, parking lot, or parking area on which the public is expressly or implicitly invited to travel by motor vehicle or pedestrian means or that is otherwise open for such travel. It does not include golf courses, private driveways, or property serving a single dwelling unit.~~

~~(b) *Prohibition.* It is unlawful for any person to possess or drink from an open container of an alcoholic beverage while upon a public or semipublic area open for vehicular or pedestrian travel, or a commercial establishment parking lot; except in those areas in which such consumption is permitted pursuant to the beverage law, other state statutes, state administrative rule, or county ordinance or resolution.~~

~~(c) *Specific exceptions.* The prohibition contained in subsection (b) of this section does not apply to:~~

- ~~(1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, or any person taking part in a litter control campaign;~~
- ~~(2) Passengers in vehicles as set forth in F.S. § 316.1936(5);~~
- ~~(3) Any person engaged in fishing from a bridge, at a location where fishing is not prohibited by law; and~~
- ~~(4) Social and fundraising events conducted by charitable and/or nonprofit organizations approved by the county administrator.~~

~~(d) *Other exceptions.* Nothing in subsection (b) of this section may be construed to prevent the possession of an open container by a member of the public upon county property when that possession is specifically authorized by an applicable provision of this Code.~~

**Sec. 3-56. Requirement for warning signs at point of sale of alcoholic beverages.**

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

~~Alcoholic beverage means any beverage that contains more than one-half of one percent of alcohol by volume as determined in accordance with F.S. § 561.01(4)(b), including alcohol, spirits, liquor, wine and beer or a combination of alcohol, spirits, liquor, wine and beer as defined in F.S. § 561.01(4)(a) with a nonalcoholic beverage, liquid or other ingredient.~~

~~Vendor means any person or entity who owns or operates a business establishment whether as a primary or accessory use, including, but not limited to, a bar, restaurant, tavern, pub, yacht or country club, hotel, motel or other lodging establishment that sells at retail any alcoholic beverage for on-premises consumption. The term also includes any person or entity that owns and operates a liquor store, or other business establishment, including, but not limited to, grocery stores, drugstores, convenience stores and gas stations, that has retail sale of alcoholic beverages.~~

(b) a *Warning sign.*

- (1) All vendors of alcoholic beverages shall have posted in a conspicuous place in their premises a sign that is clearly visible and legible to all patrons entering the premises that shall read as follows:

<b>HEALTH WARNING</b>
Drinking distilled spirits, beer (including non-alcoholic), coolers, wine and other alcoholic beverages during pregnancy may increase the risk of permanent birth defects.

- (2) Alternatively, a sign provided by the Florida Keys Healthy Start Coalition may be used.
- (3) The sign in subsection (b)(1) of this section shall be a minimum size of 8½ inches by 11 inches.

(e) b *Applicability.* This section shall be applicable countywide. Notwithstanding this provision, all incorporated municipalities within the county may by resolution or ordinance of their governing body exempt vendors of alcoholic beverages within their municipal limits from the provisions of this section.

**Sec. 3-67. Regulation and control over sale.**

(a) *Establishment of use permit procedure.* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of the county by establishing an alcoholic beverage use permit procedure and providing criteria to be used to ensure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact

upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under such section.

- (b) *New applicants for permit.* All persons desiring to sell alcoholic beverages upon any premises located within the unincorporated areas of the county and who desire to do so upon a premises not heretofore approved by the zoning board or board of county commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit using the procedure outlined in subsection (d) of this section.
- (c) *Classifications.* ~~Corresponding to those a~~ Alcoholic beverage license classifications as ~~heretofore and hereafter~~ are adopted by the sState of Florida, ~~alcoholic beverage use permits hereafter issued pursuant to this chapter shall be classified as follows:~~ The Florida Division of Alcoholic Beverages and Tobacco Licenses and Permits for Alcoholic Beverages, available through the Florida Department of Business and Professional Regulation, identifies and establishes alcoholic beverage license classifications. Alcoholic beverage use permits issued by the County under this section shall be for a specific classification consistent with those identified by the State.
- (1) ~~1APS: Beer, package only;~~  
 (2) ~~1COP: Beer, on premises and package;~~  
 (3) ~~2APS: Beer and wine, package only;~~  
 (4) ~~2COP: Beer and wine, on premises and package;~~  
 (5) ~~6COP: Beer, wine and liquor, on premises and package;~~  
 (6) ~~6COP SRX: Restaurant, no package sales;~~  
 (7) ~~6COP SR: Restaurant, package sale;~~  
 (8) ~~6COP S: Motel, package sales;~~  
 (9) ~~6COP SBX: Bowling, no package sales;~~  
 (10) ~~6COP SPX: Boat, no package sales;~~  
 (11) ~~3BPS: Beer, wine and liquor, package sales only;~~  
 (12) ~~3M: Additional license for 6COP, over three bars; and~~  
 (13) ~~12RT: Racetrack, liquor, no package sales.~~
- (d) *Procedure.* The following procedure shall be followed on any application for an alcoholic beverage use permit hereafter made:
- (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning or his or her designee in writing on forms provided by the planning director. Such applications must be signed by the owner of the real property for which the permit is requested. Lessees of the premises may apply for such permits, provided that proper authorization from the owner of the premises is given and the application for permit is cosigned by such owner.
- (2) Upon receipt of a properly completed and executed application for an alcoholic beverage use permit stating the exact classification requested along with the necessary

- fee and identifying the specific premises to be licensed, the director of planning or his or her designee shall schedule a public hearing before the planning commission and shall advise the applicant of the date and place of the public hearing.
- (3) Notice of the application and of the public hearing thereon shall be mailed by the director of planning or his or her designee to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. ~~For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses, commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.~~ Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5.
- (4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning or his or her designee may also be heard prior to any decision by the planning commission.
- (e) *Criteria.* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:
- (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of determining property owners within 500 feet for this subsection, the term "premises" means the entire project site of a shopping center;
  - (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned, so as to allow windows and doors to remain closed to better shield light and sound from surrounding properties; if the alcoholic beverage use permit is proposed to allow on-premise consumption in outdoor areas, with or without music and entertainment, the proximity to existing residential uses shall be considered and conditions may be applied accordingly;
  - (3) Access, traffic generation, road capacities, and parking requirements;
  - (4) Demands upon utilities, community facilities and public services; and
  - (5) Compliance with the county's restrictions or requirements and any valid regulations.
- (f) *Approval by planning commission.* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein. Approval of an alcoholic beverage special use permit shall not in any way exempt a property from any other

requirement of the Monroe County Code of Ordinances, including but not limited to Chapter 17, Article IV. - Noise.

- (g) *Where permitted.* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; Commercial 1; Commercial 2; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial; and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the county development regulations in part II of this Code. Nothing contained herein shall exempt an applicant from complying with any conditions set forth within prior conditional use or building permit(s) on the subject property.
- (h) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property that has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (i) *Appeals.* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under Land Development Code chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the date of the written decision of the planning commission.
- (j) *Successive applications.* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of these regulations, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, that would justify entertaining a new application before the expiration of the two year period. However, in the case of a shopping center, ~~as defined in subsection (d)(3) of this section,~~ this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.

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## **ANALYSIS OF PROPOSED AMENDMENT**

### Definitions, Sec 3-1

The definitions are proposed to be reorganized so that all definitions are listed in the first section rather than being scattered throughout the chapter. Definitions for licensed premises and licensee are added, based on the state's corresponding definition. The definition for alcohol beverage sales is added based on the corresponding definition in the planner dictionary. The definition of alcohol vendor is simplified.



Regulation and Control Over Sale, Sec 3-6

The Department’s professional staff has proposed changing the classifications section to reference rather than list the state licenses so that the County’s Code of Ordinances will no longer need to be updated each time the state’s license categories update.

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**PREVIOUS RELEVANT BOCC ACTION:**

The BOCC last updated Code of Ordinances Chapter 3 in 2007. BOCC Ordinance No. 006-2007 required warning signs at the point of sale.

On December 7, 2022, the BOCC approved a request to advertise the proposed Ordinance amending the alcohol beverage regulations.

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**CONTRACT/AGREEMENT CHANGES:**

N/A

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**STAFF RECOMMENDATION:** Approval with the edits recommended by the Planning and Environmental Resources Department's professional staff.

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**DOCUMENTATION:**

2022-038 Ordinance

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**FINANCIAL IMPACT:**

<b>Effective Date:</b> n/a		
<b>Expiration Date:</b> n/a		
<b>Total Dollar Value of Contract:</b> n/a		
<b>Total Cost to County:</b> n/a		
<b>Current Year Portion:</b> n/a		
<b>Budgeted:</b> n/a		
<b>Source of Funds:</b> n/a		
<b>CPI:</b> n/a		
<b>Indirect Costs:</b> n/a		
<b>Estimated Ongoing Costs Not Included in above dollar amounts:</b> n/a		
<b>Revenue Producing:</b> No	<b>If yes, amount:</b>	n/a
<b>Grant:</b> n/a		
<b>County Match:</b> n/a		
<b>Insurance Required:</b> N/A		
<b>Additional Details:</b>		

**REVIEWED BY:**

Emily Schemper	Completed	12/29/2022 3:06 PM
Peter Morris	Completed	01/03/2023 9:53 AM
Purchasing	Completed	01/03/2023 10:08 AM
Budget and Finance	Completed	01/03/2023 10:21 AM
Brian Bradley	Completed	01/03/2023 10:35 AM
Lindsey Ballard	Completed	01/03/2023 10:51 AM
Board of County Commissioners	Pending	01/18/2023 9:00 AM



**MONROE COUNTY, FLORIDA**  
**MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**  
**ORDINANCE NO. -2023**

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENT OF MONROE COUNTY CODE OF ORDINANCES CHAPTER 3 (“ALCOHOLIC BEVERAGES”) TO REVISE THE REGULATIONS OF ALCOHOL SALES AND CONSUMPTION, INCLUDING UPDATING THE LICENSE CATEGORIES FROM FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES.**

**WHEREAS**, the purpose of this ordinance is in the interest of the health, safety, peace and general welfare of the residents of the County, and under the authority of the County to regulate the sale and consumption of alcoholic beverages within the limits of unincorporated Monroe County; and

**WHEREAS**, the intent of the Monroe County Board of County Commissioners is to establish reasonable and uniform regulations with regards to location and hours of operation that will protect the health, safety, property values, and general welfare of the people, businesses, and industries of unincorporated Monroe County; and

**WHEREAS**, this ordinance was written in accordance with Florida State Statutes Chapter's 561, 562, 563, 564, 565, 567 and 568; and collectively referred to as "Florida Beverage Law"; and

**WHEREAS**, at a regularly scheduled meeting on the 18<sup>th</sup> day of January, 2023, the BOCC held a public hearing to consider adoption of the proposed text amendment;

**WHEREAS**, based upon the information and documentation submitted, the BOCC makes the following findings of fact and conclusions of law:

1. The proposed amendment is consistent with Florida Beverage Law; and

2. The proposed amendment provides consistency with the types of licenses authorized by the State of Florida.

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

**Section 1.** **Recitals and Legislative Intent.** The foregoing prefatory recitals and determinations are true and correct and are hereby incorporated as if fully stated herein.

**Section 2.** The text of the Monroe County Comprehensive Plan is hereby amended as follows (deletions are shown ~~stricken through~~; additions are shown underlined):

Additions are in underlined; deletions are in ~~strike through~~. Text that has been moved is shown as deletions double underlined and deletions in ~~double strike through~~.

**Chapter 3**  
**ALCOHOLIC BEVERAGES<sup>1</sup>**

**~~Sec. 3-1. Special beverage licenses.~~**

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alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water in accordance with F.S. § 561.01(4)(b).

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- (b) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. In addition, any person or establishment violating this section shall have revoked any previous rights granted to it by the county under section 3-6.

State law reference(s)—Regulation of the time for sale of alcoholic beverages, F.S. § 562.14.

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- (2) The sale and consumption of alcoholic beverages is part of a social event, such as a wedding or birthday party, the duration of which may not exceed four hours; and
- (3) Depending on the size of the expected crowd, the event sponsor must agree to furnish a sufficient number of off-duty law enforcement personnel for crowd and traffic control, the number to be determined by the county administrator, and to provide evidence satisfactory to the county administrator that the law enforcement personnel have in fact been hired; and
- (4) The sponsor of the event has furnished to the county's risk manager evidence that the sponsor has obtained event liability insurance, naming the county as an additional co-insured, in an amount satisfactory to the risk manager.

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~~*Public or semipublic area open for vehicular or pedestrian travel* means any private or public road, street, highway, right-of-way, lane, alley, parking lot, or parking area on which the public is expressly or implicitly invited to travel by motor vehicle or pedestrian means or that is otherwise open for such travel. It does not include golf courses, private driveways, or property serving a single dwelling unit.~~

(~~ba~~) *Prohibition.* It is unlawful for any person to possess or drink from an open container of an alcoholic beverage while upon a public or semipublic area open for vehicular or pedestrian travel, or a commercial establishment parking lot; except in those areas in which such consumption is permitted pursuant to the beverage law, other state statutes, state administrative rule, or county ordinance or resolution.

(~~eb~~) *Specific exceptions.* The prohibition contained in subsection (~~ba~~) of this section does not apply to:

- (1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, or any person taking part in a litter control campaign;
- (2) Passengers in vehicles as set forth in F.S. § 316.1936(5);
- (3) Any person engaged in fishing from a bridge, at a location where fishing is not prohibited by law; and
- (4) Social and fundraising events conducted by charitable and/or nonprofit organizations approved by the county administrator.

(~~dc~~) *Other exceptions.* Nothing in subsection (~~ba~~) of this section may be construed to prevent the possession of an open container by a member of the public upon county property when that possession is specifically authorized by an applicable provision of this Code.

**Sec. 3-56. Requirement for warning signs at point of sale of alcoholic beverages.**

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

~~Alcoholic beverage means any beverage that contains more than one half of one percent of alcohol by volume as determined in accordance with F.S. § 561.01(4)(b), including alcohol, spirits, liquor, wine and beer or a combination of alcohol, spirits, liquor, wine and beer as defined in F.S. § 561.01(4)(a) with a nonalcoholic beverage, liquid or other ingredient.~~

~~Vendor means any person or entity who owns or operates a business establishment whether as a primary or accessory use, including, but not limited to, a bar, restaurant, tavern, pub, yacht or country club, hotel, motel or other lodging establishment that sells at retail any alcoholic beverage for on-premises consumption. The term also includes any person or entity that owns and operates a liquor store, or other business establishment, including, but not limited to, grocery stores, drugstores, convenience stores and gas stations, that has retail sale of alcoholic beverages.~~

(~~ba~~) *Warning sign.*

- (1) All vendors of alcoholic beverages shall have posted in a conspicuous place in their premises a sign that is clearly visible and legible to all patrons entering the premises that shall read as follows:

<b>HEALTH WARNING</b>
Drinking distilled spirits, beer (including non-alcoholic), coolers, wine and other alcoholic beverages during pregnancy may increase the risk of permanent birth defects.

- (2) Alternatively, a sign provided by the Florida Keys Healthy Start Coalition may be used.
  - (3) The sign in subsection (b)(1) of this section shall be a minimum size of 8½ inches by 11 inches.
- (e**b**) *Applicability*. This section shall be applicable countywide. Notwithstanding this provision, all incorporated municipalities within the county may by resolution or ordinance of their governing body exempt vendors of alcoholic beverages within their municipal limits from the provisions of this section.



**Sec. 3-67. Regulation and control over sale.**

- (a) *Establishment of use permit procedure.* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of the county by establishing an alcoholic beverage use permit procedure and providing criteria to be used to ensure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under such section.
- (b) *New applicants for permit.* All persons desiring to sell alcoholic beverages upon any premises located within the unincorporated areas of the county and who desire to do so upon a premises not heretofore approved by the zoning board or board of county commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit using the procedure outlined in subsection (d) of this section.
- (c) *Classifications.* ~~Corresponding to those as heretofore and hereafter adopted by the state of Florida, alcoholic beverage use permits hereafter issued pursuant to this chapter shall be classified as follows:~~ The types of specific classifications of alcoholic beverage use permits issued by the County under this section shall match the alcoholic beverage license classification types issued by the Florida Division of Alcoholic Beverages and Tobacco Licenses and Permits for Alcoholic Beverages, through the Florida Department of Business and Professional Regulation.
- (1) ~~1APS: Beer, package only;~~
- (2) ~~1COP: Beer, on premises and package;~~
- (3) ~~2APS: Beer and wine, package only;~~
- (4) ~~2COP: Beer and wine, on premises and package;~~
- (5) ~~6COP: Beer, wine and liquor, on premises and package;~~
- (6) ~~6COP SRX: Restaurant, no package sales;~~
- (7) ~~6COP SR: Restaurant, package sale;~~
- (8) ~~6COP S: Motel, package sales;~~
- (9) ~~6COP SBX: Bowling, no package sales;~~
- (10) ~~6COP SPX: Boat, no package sales;~~
- (11) ~~3BPS: Beer, wine and liquor, package sales only;~~
- (12) ~~3M: Additional license for 6COP, over three bars; and~~
- (13) ~~12RT: Racetrack, liquor, no package sales.~~

- (d) *Procedure.* The following procedure shall be followed on any application for an alcoholic beverage use permit hereafter made:
- (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning or his or her designee in writing on forms provided by the planning director. Such applications must be signed by the owner of the real property for which the permit is requested. Lessees of the premises may apply for such permits, provided that proper authorization from the owner of the premises is given and the application for permit is cosigned by such owner.
  - (2) Upon receipt of a properly completed and executed application for an alcoholic beverage use permit stating the exact classification requested along with the necessary fee and identifying the specific premises to be licensed, the director of planning or his or her designee shall schedule a public hearing before the planning commission and shall advise the applicant of the date and place of the public hearing.
  - (3) Notice of the application and of the public hearing thereon shall be mailed by the director of planning or his or her designee to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. ~~For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses, commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.~~ Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5.
  - (4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning or his or her designee may also be heard prior to any decision by the planning commission.
- (e) *Criteria.* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:
- (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of determining property owners within 500 feet for this subsection, the term "premises" means the entire project site of a shopping center;
  - (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned, so as to allow windows and doors to remain closed to better shield light and sound from surrounding properties; if the alcoholic beverage use permit is

proposed to allow on-premise consumption in outdoor areas, with or without music and entertainment, the proximity to existing residential uses shall be considered and conditions may be applied accordingly;

- (3) Access, traffic generation, road capacities, and parking requirements;
  - (4) Demands upon utilities, community facilities and public services; and
  - (5) Compliance with the county's restrictions or requirements and any valid regulations.
- (f) *Approval by planning commission.* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein. Approval of an alcoholic beverage special use permit shall not in any way exempt a property from any other requirement of the Monroe County Code of Ordinances, including but not limited to Chapter 17, Article IV. - Noise.
- (g) *Where permitted.* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; Commercial 1; Commercial 2; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial; and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the county development regulations in part II of this Code. Nothing contained herein shall exempt an applicant from complying with any conditions set forth within prior conditional use or building permit(s) on the subject property.
- (h) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property that has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (i) *Appeals.* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under Land Development Code chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the date of the written decision of the planning commission.
- (j) *Successive applications.* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of these regulations, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, that would justify entertaining a new application before the expiration of the two year period. However, in the case of a shopping center, ~~as defined in subsection (d)(3) of this section,~~ this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.

**Section 3. Construction and Interpretation.** The construction and interpretation of this ordinance and all Monroe County Comprehensive Plan provision(s), Florida Building Code, Florida Statutes, and Monroe County Code provision(s) whose interpretation arises out of, relates to, or is interpreted in connection with this ordinance shall be liberally construed and enforced in favor of Monroe County, and shall be construed in favor of the BOCC and such construction and interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial, bankruptcy, and on appeal.

**Section 4. No Liability.** Monroe County expressly reserves and in no way shall be deemed to have waived, for itself or for its officer(s), employee(s), or agent(s), any sovereign, governmental, and any other similar defense, immunity, exemption, or protection against any suit, cause-of-action, demand, or liability.

**Section 5. Severability.** If any provision of this ordinance, or any part or portion thereof, is held to be invalid or unenforceable by any administrative hearing officer or court of competent jurisdiction, the invalidity or unenforceability of such provision, or any part or portion thereof, shall neither limit nor impair the operation, enforceability, or validity of any other provision of this ordinance, or any remaining part(s) or portion(s) thereof. All other provisions of this ordinance, and remaining part(s) or portion(s) thereof, shall continue unimpaired in full force and effect.

**Section 6. Repeal of Inconsistent Provisions.** All ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

**Section 7. Filing and Effective Date.** This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

**Section 8. Inclusion in the Monroe County Code.** The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform marking system of the Code.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the \_\_\_\_\_ day of January, 2023.

Mayor Craig Cates	_____
Mayor Pro Tem Holly Merrill Raschein	_____
Commissioner Michelle Lincoln	_____
Commissioner James Scholl	_____
Commissioner David Rice	_____


Attachment: 2022-038 Ordinance (Ordinance amending Ch. 3, Alcoholic Beverages)

BOARD OF COUNTY  
COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: \_\_\_\_\_  
Mayor Craig Cates

(SEAL)  
ATTEST: KEVIN MADOK, CLERK

By: \_\_\_\_\_  
As Deputy Clerk

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM  
  
\_\_\_\_\_  
PETER MORRIS  
ASSISTANT COUNTY ATTORNEY  
Date: 1/3/23

Attachment: 2022-038 Ordinance (Ordinance amending Ch. 3, Alcoholic Beverages)