

1
2
3
4
5
6
7
8
9
10
11
12
13

**EXHIBIT 1
ORDINANCE NO. 2019-**

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE
CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER
5, "CODE OF ORDINANCES OF THE CITY OF HALLANDALE
BEACH, FLORIDA; AMENDING SECTION 5-6, "DISTANCES
BETWEEN BUSINESSES AND FROM SCHOOLS, CHURCHES AND
PUBLIC PARKS"; PROVIDING FOR CODIFICATION; PROVIDING
FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE. (First Reading)**

WHEREAS, pursuant to the provisions of Section 5-6, Section 5-6(b) of the City's Code of Ordinances, no establishment licensed to sell beer, wine or liquor for consumption on-premises may be located within 1,000 feet of another establishment licensed to sell beer, wine or liquor for consumption on or off-premises; and

WHEREAS, section 5-6(d) also provides minimum distance standards between establishments that sell beer, wine or liquor for consumption on or off-premises in proximity to schools, public parks and churches; and

WHEREAS, historically, these restrictions have resulted in numerous waivers being requested and granted by the City Commission; and

WHEREAS, applying for a waiver from the distance requirements for such establishments can delay the opening of the business and be costly, as the process involves filing fees, providing certified distance surveys, and a public hearing before the City Commission; and

WHEREAS, staff is proposing to amend Section 5-6 to eliminate the existing distance separation between businesses that primarily serve sell alcoholic beverages for consumption on-premises and like businesses. The location of alcoholic beverage establishments would still be restricted by the zoning of the property.

WHEREAS, the Mayor and City Commission have determined that it is in the best interest of the residents of the City of Hallandale Beach to amend the City's Code as indicated herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF
THE CITY OF HALLANDALE BEACH, FLORIDA:**

SECTION 1. The forgoing "Whereas" clauses are incorporated herein.

SECTION 2. Chapter 5, Section 5-6 Alcoholic Beverages, Hallandale Beach Code of Ordinances is amended as follows:

Sec. 5-6. - Distances between businesses and from schools, churches places of worship and public parks.

- 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:

Restaurant means a public food service establishment where food is regularly prepared and served for immediate consumption on the premises, duly licensed under all applicable laws, regulations and ordinances. Such establishment shall also have full kitchen facilities, and in excess of 50 percent of the establishment's gross income shall be from a source other than the sale of alcoholic beverages.

School means an organization of pupils for instructional purposes on a kindergarten, elementary or secondary level, whether public, private or parochial.

- b) *Interbusiness distances.*

~~1) No place of business licensed to sell beer with consumption on the premises; beer and wine with consumption on the premises; or beer, wine and liquor with consumption on the premises may be located within 1,000 feet, measured by the most direct route from main entrance to main entrance, of a place of business where there is already an establishment licensed in any of these three categories.~~

~~2) No place of business licensed to sell beer, wine and liquor with consumption off the premises may be located within 600 feet, measured by the most direct route from main entrance to main entrance, of another place of business licensed to sell beer, wine and liquor with consumption off the premises. nor may it be located within 1,000 feet, measured by the most direct route from main entrance to main entrance, of any of the types of businesses enumerated in subsection (b)(1) of this section.~~

- c) *Exception.* Interbusiness distance requirements of this section ~~The provisions of subsection (b) of this section~~ shall not apply to any business licensed to sell beer, wine or liquor for consumption on the premises or restaurants selling alcoholic beverages as defined herein. ~~Any business licensed to sell alcoholic beverages for consumption on premises may be located within the categories specified in subsection (b) of this section may be located within 1,000 feet of a restaurant selling alcoholic beverages, measured by the most direct route from main entrance to main entrance; and a restaurant selling alcoholic beverages may be located within 1,000 feet of such businesses.~~

- d) ~~Church~~ Place of worship, school and public park distances: No establishment, other than restaurants as defined herein, may sell alcoholic or intoxicating beverages for consumption on-premises or off-premises other than that specified in subsection (g) hereof ~~may sell any alcoholic or other intoxicating beverage~~ within 500 feet of a public park or within 1,000 feet of a ~~church~~ place of worship, school or property owned by a ~~church~~ place of worship or school and designated for use as a ~~church~~ place of worship or school. In order for a ~~church~~ place of worship or school to put on notice a property owner of its intention to erect a structure on a site, it must submit an affidavit to the city clerk setting forth the legal description of its property, affirming that the property is owned by the ~~church~~ place of worship, and which affidavit shall state the intention of the ~~church~~ place of worship to build a structure on the site. For the purposes of this section, the distances shall be determined by the most direct route from the main entrance of the establishment to the nearest property line of the ~~church~~ place of worship, school or public park.
- e) *Existing establishments.* Nothing contained in this section shall be construed as preventing the renewal, continued use or transfer of ownership of any current licenses issued in full compliance with all laws, ordinances or regulations applicable at the time of issuance of the original license; but such licenses shall be subject to the restrictions contained in the zoning ordinance of the city. Whenever a license has been lawfully procured and thereafter a ~~church~~ place of worship, or a school site is acquired, or a ~~church~~ place of worship or school is constructed without compliance by such ~~church~~ place of worship or school with the notice requirements set forth in subsection (d) of this section, such acquisition or construction shall not have any effect on the revocation, renewal or transfer of ownership of such licenses.
- f) *Zoning compliance.* Nothing contained in this section is intended to affect provisions of the zoning ordinance of the city, which are reaffirmed and continued.
- g) *Off-premises beer establishments.* Subsection (d) of this section shall not apply to establishments licensed under F.S. § 563.02 to sell beer off the premises; however, such establishments located within 1,000 feet of a school measured in the manner set forth in subsection (d) of this section shall be prohibited from selling beer between the hours of 7:00 a.m. and 9:00 a.m., and 11:00 a.m. and 4:00 p.m. on days when school is in session, and establishments located within 1,000 feet of a ~~church~~ place of worship—measured in the manner set forth in subsection (d) of this section shall be prohibited from selling beer between the hours of 8:00 a.m. and 1:00 p.m. on Sundays.
- h) *Waivers.*
- (1) The city commission may grant a waiver to any of the provisions contained in this section, subject to the following limitations:
- a. The applicant shall file an application and pay an application fee. Such fee is on file in the development services department. The applicant shall furnish a certified survey from a registered land surveyor indicating the distance between the proposed premises and any other specified use.
- b. The city commission must hold a public hearing with prior written notice by first class and certified mail being given to the affected parties. With respect to a waiver from the establishment separation requirement, the notice shall be to any such establishment within the specified distance. With respect to the separation requirements from ~~a church and schools,~~ notice shall be [sent] to the ~~church or~~

128 school, as appropriate. With respect to public schools, notice shall be sent to the
129 principal and to the school board of the county.
130

- 131 c. All waivers granted are subject to revocation by the city commission if adverse effects
132 on the affected parties result.
133
- 134 d. The applicant is required to demonstrate that the granting of the waiver will not have
135 any substantial or material adverse effect on the parties sought to be protected by
136 the particular provision sought to be varied, and that the spirit and intent of this
137 section will not be violated.
138

139 (2) An administrative waiver from the separation requirements for any establishment for
140 consumption off-premises within the specified distance and a place of worship; or,
141 between an establishment not considered a restaurant that serves alcoholic beverages
142 on-premises and a place of worship, school or public park may be granted by the
143 director of development services upon the following:
144

- 145 a. Submittal of an application and payment of filing fee. The applicant shall include
146 information specified in subsections 5-6(h)(1)(a) and (d) of this section.
147
- 148 b. The filing fee for administrative waiver requests shall be the as specified in the
149 city's fee schedule for alcoholic distance waiver.
150
- 151 c. The city shall notify the affected place of worship, school or public park by mail.
152 Such notice shall be sent as a courtesy by first class and certified mail stating the
153 nature of the administrative waiver being considered; the place and time the
154 application may be reviewed; and, notification that any protest by the affected party
155 of the granting of the waiver will be required in writing within 20 working days of
156 the date of the notice.
157
- 158 d. If an affected party submits a written protest, the applicant may withdraw the
159 application or elect to submit the application to the city commission at a public
160 hearing.
161

162

163 (3) The granting of the authority to the city commission to grant waivers to this section is
164 expressly declared to be nonseverable from the requirements and limitations imposed
165 on the exercise of that authority, and the invalidity of any of those provisions shall
166 result in the invalidity of that grant of authority.
167

168 **SECTION 3. Conflict.** All ordinances or portions of the Code of Ordinances of the City
169 of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to
170 the extent of such conflict.
171

172 **SECTION 4. Severability.** Should any provision of this ordinance be declared by a
173 court of competent jurisdiction to be invalid, the same shall not affect the validity of the
174 ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 5. Codification. It is the intention of the Mayor and City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words "ordinance" or "section" may be changed to other appropriate words.

SECTION 6. Effective date. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED on 1st reading on _____, 2019.

PASSED AND ADOPTED on 2nd reading on _____, 2019.

JOY ADAMS
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:

JENORGEN GUILLEN
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
FORM

JENNIFER MERINO
CITY ATTORNEY