

CHAPTER 63. ALCOHOLIC BEVERAGES¹

ARTICLE I. GENERALLY

Sec. 63.01. Places of consumption or possession—Restrictions.

- (a) No person may consume or have in his or her possession any alcoholic beverage in any open container on any public street, thoroughfare, sidewalk, except in a licensed sidewalk cafe, or on any public or semi-public parking facility in the unincorporated area of the county, except as otherwise provided for in this section. The term "semi-public parking facility" shall include any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building, or multifamily residential buildings. Violations of this paragraph shall be punishable as provided in Section 10.08 of the Alachua County Code.
- (b) Nothing in this section shall be construed to prohibit consumption or possession of alcohol in open containers in non-residential areas within a mixed-use planned development, the village center of a transit oriented development, or the village center of a traditional neighborhood development if the area has been designated as an open container area in a planned development zoning master plan or preliminary development plan approved by the board of county commissioners.
- (c) To allow for the open consumption or possession of alcohol in designated open container areas, the owner of an open container area shall ensure the following:
 - (1) The alcoholic beverages in the designated open container area shall only be served by businesses that are located within the designated open container area and possess all required licenses or permits for serving alcohol; and
 - (2) Signage shall be placed at every ingress and egress of the designated open container area advising the public of the open container area boundaries and informing the public that open containers of alcohol are not allowed beyond those boundaries.
- (d) In addition to the prohibition contained in subsection (a), no person shall consume or have in his possession any alcoholic beverage in an open container on any other privately owned property, except as a lawful guest and with the consent of the owner or person in charge of such privately owned property.

(Ord. No. 85-6, § 1, 7-2-85; Ord. No. 2017-01, § 1, 4-25-17)

Cross reference(s)—Vehicles and traffic, ch. 51.

Sec. 63.02. Same—Applicability.

Section 63.01 shall apply only in the unincorporated area of the county.

¹Cross reference(s)—Nudity or sexual conduct in alcoholic beverage establishments, ch. 115; alcoholic beverage sales in restaurants, § 250.01.

State law reference(s)—Beverage Law, F.S. ch. 561 et seq.

(Ord. No. 85-6, § 3, 7-2-85)

Sec. 63.03. Additional club licenses—Authorized.

The quota of beverage licenses to be issued under the authority of F.S. § 565.02(4) and F.S. § 561.20(7), such licenses being known as club licenses, shall be increased to include any chartered or incorporated riding horse association owning and maintaining a club, stabling, and show facilities consisting of at least 40 acres of land owned by such riding horse association. Any such association may be issued a license under F.S. § 565.02(4).

(Laws of Fla., ch. 67-1035, § 1; Laws of Fla., ch. 71-29, § 2)

Sec. 63.04. Same—Distribution.

The additional licenses provided for in section 63.03 shall be distributed to riding horse associations chartered or incorporated by orders of the circuit judges as provided in F.S. § 565.02(4), or the office of the Secretary of State of Florida. The recipients of such additional licenses must have been in existence prior to May 1, 1947.

(Laws of Fla., ch. 67-1035, § 2; Laws of Fla., ch. 71-29, § 2)

ARTICLE II. SALES²

Sec. 63.20. Definitions.

The definitions contained in the alcoholic beverage laws of the State of Florida, as set forth in Chapters 561, 562, and 564, Florida Statutes, shall apply to the terms in this chapter.

(Ord. No. 2012-02, § 1, 1-24-12)

Cross reference(s)—Definitions and rules of construction generally, § 10.02.

State law reference(s)—"Sale" defined, F.S. § 561.01(9).

Sec. 63.21. Authority; applicability.

Pursuant to F.S. § 562.14(1), the board of county commissioners, in this chapter, establishes and prescribes the only hours during which alcoholic beverages may be purchased, sold, served, or consumed, or permitted to be served or consumed, at establishments located within the unincorporated areas of the county and holding a beverage license under the laws of Florida.

(Ord. No. 2012-02, § 1, 1-24-12)

²Editor's note(s)—Ord. No. 2012-02, § 1, adopted Jan. 24, 2012, amended former Art. II, §§ 63.20—63.24, in its entirety to read as herein set out. Former Art. II pertained to the same subject matter and derived from the Code of 1976 and the following: Ord. No. 85-5, §§ 1, 4, 7-2-85; Ord. No. 95-17, § 1, 12-12-95.

Cross reference(s)—Zoning, tit. 39.

Sec. 63.22. Permitted hours of sale for off-premises consumption—Malt beverages; unfortified wine.

Packaged sales for off-premises consumption of malt beverages and unfortified wine shall be permitted on all days between the hours of 7:00 a.m. and 2:00 a.m. on the following day.

(Ord. No. 2012-02, § 1, 1-24-12)

State law reference(s)—Definitions relating to malt beverages and wine, F.S. §§ 563.01, 564.01.

Sec. 63.23. Same—Other beverages.

Packaged sales for off-premises consumption of all alcoholic beverages except malt beverages and unfortified wine shall be permitted on all days between the hours of 7:00 a.m. and 11:00 p.m.

(Ord. No. 2012-02, § 1, 1-24-12)

State law reference(s)—Definitions relating to fortified wine and liquor, F.S. §§ 564.01, 565.01.

Sec. 63.24. Permitted hours of sale for consumption at business or club.

It shall be unlawful for any person to sell to or to consume or to permit the consumption of any alcoholic beverage on the premises of any business or club open to the public, which business or club caters to or allows the consumption of alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. immediately following on Tuesday, Wednesday, Thursday, Friday, or Saturday; or between the hours of 2:00 a.m. and 1:00 p.m. on Sunday; or between the hours of 11:00 p.m. on Sunday and 7:00 a.m. on all days. Within this section, the term "premises" shall mean the physical facilities, improvements, or buildings where the business or club is located and conducted, and any parking lot or other real property available to the business or club. As used herein, the terms "business" and "club" shall mean any place which is open to the public or to which the public is invited. The provisions of this section shall apply whether or not such premises hold a valid beverage license.

(Ord. No. 2012-02, § 1, 1-24-12)

CHAPTER 115. ALCOHOLIC BEVERAGE ESTABLISHMENTS³

Sec. 115.01. Definitions.

As used in this chapter:

Alcoholic beverages shall mean all beverages containing more than one percent alcohol by weight.

Establishment dealing in alcoholic beverages shall mean any business or commercial establishment, whether open to the public at large or where entrance is limited by a cover charge or membership requirement, including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; any establishment operated like a bottle club without being called or classed as a bottle club; a hotel; a motel; a restaurant; a night club; a country club; a cabaret; a meeting facility utilized by any religious, social, fraternal, or similar organization;

³Cross reference(s)—Business licenses and regulations, tit. 6; alcoholic beverages generally, ch. 63; alcoholic beverage sales in restaurants, § 250.01.

or a business or commercial establishment where a product or article is sold, dispensed, served, or provided with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with or drunk in connection or combination with an alcoholic beverage served or bought on the premises; or business or commercial establishment where the consumption of alcoholic beverages is permitted, whether bought on the premises or brought onto the premises and thereafter consumed. That portion of a facility designed and equipped as a dwelling unit which is actually being used as a permanent, temporary, or transient private residence, including, but not limited to, houses, apartments, condominiums, hotel and motel rooms, dormitories, and boardinghouses, is not a establishment dealing in alcoholic beverages. This definition shall not be construed or interpreted to apply to any establishment except those where alcoholic beverages, as defined herein, are sold, dispensed, consumed, or possessed on the premises, or permitted to be brought on the premises for consumption.

(Ord. No. 91-5, § 1, 4-9-91)

Cross reference(s)—Definitions and rules of construction generally, § 10.02.

Sec. 115.02. Findings; intent of chapter.

It is hereby found by the board of county commissioners, acting in its legislative capacity for the purpose of regulating alcoholic beverage establishments, as authorized pursuant to the 21st Amendment, that, considering what has happened in other communities, the acts prohibited in section 115.03 below encourage or create the potential for the conduct of prostitution, attempted rape, rape, and assault in and around establishments dealing in alcoholic beverages; that actual and simulated nudity and sexual conduct and the depiction thereof, coupled with alcohol, in public places begets and has the potential for begetting undesirable behavior; that sexual, lewd, lascivious, and salacious conduct among patrons and employees within establishments dealing in alcoholic beverages results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct; and it is the intent of this chapter to prohibit nudity, gross sexuality, and the simulation and depiction thereof in establishments dealing in alcoholic beverages.

(Ord. No. 91-5, § 1, 4-9-91)

Sec. 115.03. Nudity and sexual conduct prohibited.

Within existing or newly created establishments dealing in alcoholic beverages:

- (a) No person shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks, or any simulation thereof.
- (b) No female person shall expose to public view any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof.
- (c) No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the buttocks or simulation thereof. Within this paragraph and section, the term "buttocks" shall mean the area at the rear of the body which lies between two imaginary lines running parallel to the ground when a person is standing, the first or top such line drawn at the top of the cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom line drawn at the lowest visible point of this cleavage or the lowest point of the curvature of the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above, and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg. This section would be violated, therefore, if any portion of this area is visible from any vantage point.

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- (d) No person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any female person to expose to public view any portion of her breasts, directly or laterally, below the top of the areola, or any simulation thereof.
 - (e) No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, and sexual act which is prohibited by law, touching, caressing, or fondling of the breasts, buttocks, anus, or genitals, or the simulation thereof.
 - (f) No person shall cause and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or images by the projection of film or video images on a television or a monitor, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts directly or laterally below the top of the areola, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act prohibited by law, touching, caressing, or fondling of the breasts, buttocks, anus, or genitals, or any simulation thereof. This subsection shall not be construed to prohibit the showing of movies, tapes, or video cassettes that contain a movie industry rating of "R" or "PG-13."

(Ord. No. 91-5, § 1, 4-9-91)

Sec. 115.04. Penalty.

Any person violating this chapter shall be guilty of a misdemeanor and, in addition to any other penalty provided herein, shall be subject to the penalty set forth in F.S. § 125.69(1).

(Ord. No. 91-5, § 1, 4-9-91)

Sec. 115.05. Enforcement.

This Chapter may be enforced in accordance with F.S. Ch. 162, as amended from time to time, and Chapter 24, Alachua County Code, as amended from time to time.

(Ord. No. 91-5, § 1, 4-9-91; Ord. No. 2020-22 , § 21, 10-13-20)

Editor's note(s)—Ord. No. 2020-22 , § 21, adopted October 13, 2020, changed the title from "Enforcement by codes enforcement board" to "Enforcement."

Sec. 115.06. Injunctive relief.

In addition to the enforcement procedures provided for herein, alcoholic beverage establishments not in conformity with these requirements shall be subject to the appropriate civil action in the court of appropriate jurisdiction for abatement. Each day that any such violation is committed shall constitute a separate offense.

(Ord. No. 91-5, § 1, 4-9-91)

Sec. 115.07. Territorial jurisdiction.

All territory within the legal boundaries of unincorporated Alachua County and the territories within the legal boundaries of the City of Archer, the City of Gainesville, the City of Hawthorne, the City of High Springs, the Town of Micanopy, and the City of Waldo shall be embraced by the provisions of this chapter.

(Ord. No. 91-5, § 2, 4-9-91)

Sec. 123.22. Alcohol and other drug abuse trust fund; assistance grants.

- (a) *Establishment.* There is hereby established the Alachua County Alcohol and Other Drug Abuse Trust Fund. Assessments imposed by the courts and collected pursuant to F.S. § 938.23 shall be deposited in the fund. The county shall be responsible for the implementation, administration, supervision and evaluation of the fund.
- (b) *Expenditures.* Monies in the fund shall be used only for assistance grants by the board of county commissioners to county-based alcohol and other drug abuse treatment or education programs that meet the qualifications of the state department of children and family services and that are designated by the board of county commissioners as program recipients. Selection shall be based on the success of the program. Designation of program recipients shall be made annually upon recommendation to the board of county commissioners by the county manager, with final designation approval to be made by the board of county commissioners. A county alcohol and other drug abuse treatment or education program that requests an assistance grant from the county shall provide the county with detailed financial information, along with its request for an assistance grant.
- (c) *Collection of assessment.* In those criminal cases in which the indictment was found in the county or the prosecution was commenced in the county and the court imposes an additional assessment pursuant to F.S. § 938.23, the clerks of courts shall collect and remit the collected assessments to the board of county commissioners for deposit in the county's alcohol and other drug abuse trust fund.

(Ord. No. 04-10, § 1, 6-22-04)

Sec. 250.01. Alcoholic beverage sales in restaurants.

In Alachua County the limitation as to the number of alcoholic beverage licenses as provided by F.S. § 561.20(1) shall not prohibit issuance of such licenses to any bona fide restaurant containing all necessary equipment and supplies for and serving full course meals regularly and having accommodations at all times for service of 100 or more patrons at tables and occupying more than 1,800 square feet of floor space and which derive no less than 51 percent of gross income per annum from the sale of food consumed on the premises. The director of the Division of Beverage of the State of Florida is authorized to regulate and supervise restaurants to which such licenses are issued under the regulations of the division of beverage and the general law not inconsistent herewith. The director of the division of beverage shall have the authority to revoke or suspend any such license for violations of the beverage law and regulations of this state not inconsistent herewith.

(Laws of Fla., ch. 70-574, § 1)

Cross reference(s)—Alcoholic beverages, ch. 63; nudity or sexual conduct in alcoholic beverage establishments, ch. 115.