

City of South Daytona

Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



MEMORANDUM

To: The Honorable Mayor and Members of the City Council

From: James L. Gillis Jr., City Manager

Re: **Consideration of approving the Second and Final Reading of Ordinance No. 2023-05** amending the City of South Daytona Code of Ordinances, Chapter 3, Alcoholic Beverages, amending Section 3-1, Definitions, and Section 3-3, Proximity to church or school, to revise the minimum distance requirements between the sale of alcoholic beverages, and churches or schools, and to add minimum distance requirement between the sale of alcoholic beverages and public parks; amending Section 3-5, Restaurants exempted from distance requirements, to clarify that restaurants with class SR or SRX licenses are exempt from the distance requirements of Chapter 3. **Public Hearing.**

Date: April 14, 2023

The City Council approved the First Reading of Ordinance 2023-05 on April 11, 2023. This is the Second and Final Reading.

Most municipal codes contain a minimum separation between a liquor store and a church or school. State law has this requirement as well. The main goal of these provisions is to reduce the exposure that our children have to these types of establishments.

Our code has such a provision that requires a minimum separation of five hundred feet between liquor store and a church or school. The opportunity now exists where the City can further reduce our children's exposure to these establishments while still allowing the use in certain commercial districts.

The proposed ordinance, drafted for your consideration, will achieve this objective by increasing the separation distance from 500 to 1,000 feet and adding parks to the list of uses included in the separation requirement.

With the goal of reducing the exposure that children have to these types of establishments in mind, staff is recommending that Ordinance No. 2023-05 be approved so that our code can be amended to further protect the children that live and play within our community.

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES, CHAPTER 3, ALCOHOLIC BEVERAGES, AMENDING SECTION 3-1, DEFINITIONS, AND SECTION 3-3, PROXIMITY TO CHURCH OR SCHOOL, TO REVISE THE MINIMUM DISTANCE REQUIREMENTS BETWEEN THE SALE OF ALCOHOLIC BEVERAGES, AND CHURCHES OR SCHOOLS, AND TO ADD MINIMUM DISTANCE REQUIREMENT BETWEEN THE SALE OF ALCOHOLIC BEVERAGES AND PUBLIC PARKS; AMENDING SECTION 3-5, RESTAURANTS EXEMPTED FROM DISTANCE REQUIREMENTS, TO CLARIFY THAT RESTAURANTS WITH CLASS SR OR SRX LICENSES ARE EXEMPT FROM THE DISTANCE REQUIREMENTS OF CHAPTER 3; AND PROVIDING FOR ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

WHEREAS, the Council finds the amendment of the code is in the best interest of the protecting the health, safety, and welfare of the residents and guests of the City; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA, THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Adoption. The City Council of the City of South Daytona hereby amends the following portions of Chapter 3 of the *City of South Daytona Code of Ordinances*, to read as follows:

Chapter 3 ALCOHOLIC BEVERAGES

Sec. 3-1. Definitions.

As used in this chapter:

Liquor store shall mean a retail store licensed pursuant to the Beverage Law (F.S. chs. 561-568) with a 3PS quota class alcoholic beverage license or a 4COP quota class alcoholic beverage license, which sells alcohol for off-premises consumption.

Sec. 3-3. Proximity to church or school or city park.

No alcoholic beverages shall be sold for consumption on the premises within one thousand (1,000) ~~five hundred (500)~~ feet of any church, ~~or~~ school, or city park within the city limits; and no alcoholic beverages shall be sold for consumption off the premises within one thousand (1,000) ~~five hundred (500)~~ feet of any church, school, or city park within the city limits.

Sec. 3-5. - Restaurants exempted from distance requirements.

Food establishments serving alcoholic beverages pursuant to a special restaurant license class SR or SRX, or similar license(s) if state law is amended in the future, are exempt from the distance restrictions of this chapter.

SECTION 3. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

SECTION 4. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Code of Ordinances and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 11th day of April 2023 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 9th day of May 2023 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney