CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

REVISED AGENDA ● APRIL 1, 2019

City Commission Chamber	BOPA Regular Meeting	6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

HOLLY HILL
FLORIDA

City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

PLANNING & APPEALS BOARD MEMBERS

Chairman
Mike Myer

Board Member
Arthur J. Byrnes

Board Member
Dennis Smith

Board Member
Robin D. Hanger

Board Member
Tony Cassata

CITY PLANNER
Brian Walker

Building & Zoning
Liz Nelson

1. CALL TO ORDER

2. INNVOCATION

3. PLEDGE OF ALLEGIANCE

4. BOPA MINUTES APPROVAL

1. Minutes of February 4, 2019 Meeting

   (Requested by Brian Walker, City Planner)

5. AGENDA ITEM(S)

1. Ordinance An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations by Amending Chapter 6 (Alcoholic Beverages) Amending the Distance Restrictions and Adopting Specific Distance Restrictions Within the Community Redevelopment Area; Amending Section 78-14 (Definitions) to Add Definitions; Providing for Severability; Providing for Codification; and Providing for an Effective Date.

   (Requested by Brian Walker, City Planner)

6. OLD BUSINESS

7. BOARD/STAFF COMMUNICATIONS

8. ADJOURNMENT

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.

For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

Board of Planning and Appeals
Agenda Item

MEETING DATE:	**April 1, 2019**
FROM:	**Brian Walker**
SUBJECT:	**Minutes of February 4, 2019 Meeting**
NUMBER:	**(ID # 2396)**
APPLICANT:	
PLANNER:	**Brian Walker**

DISCUSSION: Approve February 4, 2019 BOPA Minutes

FISCAL ANALYSIS: N/A

STAFF RECOMMENDATION: Approve February 4, 2019 Minutes

COMMISSION GOAL: N/A

MOTION: As determined by the BOPA

- February 4, 2019 BOPA Minutes (PDF)

CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

MINUTES ● FEBRUARY 4, 2019

City Commission Chamber **BOPA Regular Meeting** **6:00 PM**

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Arthur J. Byrnes	Vice Chairman	Present	
Mike Myer	Chairman	Excused	
Robin D. Hanger	Board Member	Present	
Dennis Smith	Board Member	Present	
Tony Cassata	Board Member	Present	

2. INNVOCATION

Invocation was given by member Robin Hanger.

3. PLEDGE OF ALLEGIANCE

Vice Chairman Arthur Byrnes led us in the Pledge of Allegiance.

4. BOPA MINUTES APPROVAL

1.

Minutes of January 7, 2019 BOPA Minutes

(Requested by Brian Walker, City Planner)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Byrnes, Hanger, Smith, Cassata
EXCUSED:	Myer

Enacted and approved this 4th day of February, 2019, in Holly Hill

5. AGENDA ITEM(S)

1.

Attachment: February 4, 2019 BOPA Minutes (2396 : Minutes of February 4, 2019 Meeting)

Request for a Variance from the Front Yard Setback Requirement of Section 114-765 of the Land Development Regulations Titled, "Schedule of Dimensional Requirements." Specifically a Variance from the Required Front Yard Setback of 30 Feet to 19 Feet.

(Requested by Brian Walker, City Planner)
Brian Walker, City Planner, summarized his staff report stating that this is a request for a variance from the front yard setback requirement. It would be a variance from the required front yard setback of 30 feet to 19 feet for a parcel in the R-2 (Single Family) zoning district, located on the southwest corner of 5th Street and Burleigh Avenue also known as 430 Burleigh Avenue. The lot previously contained a home that was recently demolished. The applicant proposes to build a new house approximately 1600 square feet in size on the lot The parcel is a corner lot and therefore, the property is considered to have two front yards. Front yards for the R-2 zoning lots are required to have a 30 foot setback. The lot was created in 1922 and never met the 75 foot minimum lot width required by the R-2 zoning regulations in place today. The lot is a legal non-conforming lot whose configuration pre-dates the adoption of our subdivision and zoning regulations. The lot can legally be built upon, but because it is non-conforming with regard to width, the applicant cannot build the single story house as proposed and still meet the two front yard setbacks currently required by Code. Therefore, a front yard setback variance is needed. Staff finds that the applicant has met all of the criteria to grant the requested front yard setback variance. Staff recommends approval of the request for a front yard setback variance from 30 feet as required by Section 114-765 of the Land Development regulations to 19 feet on 5th Street.

Arthur Brynes stated that the request for this variance would not be out of character for this neighborhood and finds no objection.

David Patrick, 189 Woodland Avenue, Ormond Beach the applicant, stepped to the podium stating that the plan is to build a single story home approximately 1600 square feet. He further commented that the vacant lot is being used for dumping and an unauthorized parking lot by the adjourning neighbors. A home built on this lot would improve the neighborhood.

Member Robin Hanger stated that is he aware of Mr. Patrick and his work and is in favor of this request. Mr Simpson asked Mr. Hanger if he is aware of Mr. Patrick or business partners. Mr. Hanger stated he is aware of Mr. Patrick through servicing his vehicles, and had not discussed this case with him.

Being there was no further discussion a motion and second were requested.

RESULT:	**RECOMMEND APPROVAL TO CITY COMMISSION [UNANIMOUS]**
MOVER:	Dennis Smith, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Byrnes, Hanger, Smith, Cassata
EXCUSED:	Myer

Enacted and approved this 4th day of February, 2019, in Holly Hill

Attachment: February 4, 2019 BOPA Minutes (2396 : Minutes of February 4, 2019 Meeting)

6. OLD BUSINESS

Arthur Brynes asked Scott Simpson, City Attorney if he could inform the board members about code of conduct. Mr. Simpson stated that he briefly went through that at last month's meeting. He commented that the most important thing is to not discuss any case coming to this board, outside of the meetings, also any documents you may receive pertaining to the City must be turned in to the City Clerk so it can be made a public record.

Brian Walker, City Planner stated that he is working on getting information together for the Board members.

7. BOARD/STAFF COMMUNICATIONS

Brian Walker, City Planner stated that this variance request will go before the City Commission on February 26, 2019.

8. ADJOURNMENT

This meeting adjourned at 6:17 PM

Attachment: February 4, 2019 BOPA Minutes (2396 : Minutes of February 4, 2019 Meeting)

HOLLY HILL
FLORIDA

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

Board of Planning and Appeals
Ordinance

MEETING DATE: **April 1, 2019**
FROM: **Brian Walker**
SUBJECT: **An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations by Amending Chapter 6 (Alcoholic Beverages) Amending the Distance Restrictions and Adopting Specific Distance Restrictions Within the Community Redevelopment Area; Amending Section 78-14 (Definitions) to Add Definitions; Providing for Severability; Providing for Codification; and Providing for an Effective Date.**
NUMBER: **(ID # 2449)**
APPLICANT: **Brian Walker**
PLANNER:

TITLE
Consider Adoption of an ordinance of the city of Holly Hill, Florida, amending the Land Development Regulations by amending Chapter 6 (alcoholic beverages) amending the distance restrictions and adopting specific distance restrictions within the Community Redevelopment Area; amending section 78-14 (definitions) to add definitions.

BACKGROUND
Chapter 6 of the Land Development Regulations of Holly Hill entitled, "Alcoholic Beverages," establishes restrictions on location, rules on consumption, hours of sale and definitions, with regard to alcoholic beverages.

For example, current regulations require that a minimum of 750 feet exist between an establishment that serves alcohol and an established church or school. In the case of a restaurant where the sale is limited to beer and wine which is incidental to the primary business of selling food, the required distance from an established church or school is 200 feet. These same distance separations apply to a church or school that desires to locate near an established restaurant.

In July of 2008, the City Commission adopted Ordinances 2834 and 2844 respectively which made some minor changes to the separation requirements and exempted from the separation requirements restaurants that hold a Special Restaurant License (nka Special Food Service License). Prior to these changes in 2008, many of the requirements contained in the Land Development Regulations today with regard to alcohol, were created and adopted more than 35 years ago.

Much has changed in the last three decades, and the purpose of this proposed Ordinance is to respond to those changes by updating Chapter 6 of the Land Development Regulations and amending Section 78-14 (Definitions) to update and add definitions.

One proposed change is to reduce the separation requirements for establishments that serve alcohol from houses of worship and schools. This proposal is being made for a few reasons: 1) request have come from some in the business community who have been unable to accept offers to rent their establishment to a restaurant because of not being able to meet the separation requirement; 2) to enable Holly Hill to compete more effectively in the area with neighboring jurisdictions which require either less separation, or none at all, between restaurants and places of worship; 3) to facilitate economic activity, especially within the Community Redevelopment Area.

Currently citywide, establishments offering full liquor service must be a minimum of 750 feet away from an established house of worship or school. The same distance requirement applies to a church or school looking to locate near an established restaurant. The proposed ordinance reduces the separation requirement for full-liquor service establishments from 750 feet to 375 feet from a church and to 500 feet from a school.

Currently, within the Community Redevelopment Area (CRA), Type A restaurants (sit down with a menu and food server), that sell beer and wine only, incidental to the sale of food and non-alcoholic beverages, must maintain a distance of 200 feet from a house of worship or a school. The proposed ordinance does not prohibit locating closer than two hundred feet from a house of worship or a school, as long as the property line does not directly touch that upon which a church or school is located.

Another proposed change has to do with Sica Hall. Section 6-2(b) of the Land Development Regulations, currently permits wine and champagne to be served and consumed inside of Sica Hall only for wedding receptions. The proposed ordinance would allow beer, wine and champagne to be served and consumed inside of Sica Hall for other events and adds the requirement that a law enforcement officer be present during the event, if alcohol is served, at the host or applicant's expense.

The proposed ordinance adds language to Section 78-14 entitled Definitions, that clarifies and updates existing definitions, and that creates new definitions for establishments such as a brewpub, craft distillery, and public and private schools.

STAFF RECOMMENDATION

Adopt the ordinance of the city of Holly Hill, Florida, amending the land development regulations by amending Chapter 6 (alcoholic beverages) amending the distance restrictions and adopting specific distance restrictions within the Community Redevelopment Area; amending section 78-14 (Definitions) to add definitions.

ATTACHMENTS:

- Current Alcohol Regulations - Chapter 6 (PDF)
- Distances - Current vs. Proposed (PDF)
- Special Food Service License (PDF)

Ordinance No. (ID # 2449)

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 6 (ALCOHOLIC BEVERAGES) AMENDING THE DISTANCE RESTRICTIONS AND ADOPTING SPECIFIC DISTANCE RESTRICTIONS WITHIN THE COMMUNITY REDEVELOPMENT AREA; AMENDING SECTION 78-14 (DEFINITIONS) TO ADD DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE # 3016

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 6 (ALCOHOLIC BEVERAGES) AMENDING THE DISTANCE RESTRICTIONS AND ADOPTING SPECIFIC DISTANCE RESTRICTIONS WITHIN THE COMMUNITY REDEVELOPMENT AREA; AMENDING SECTION 78-14 (DEFINITIONS) TO ADD DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission finds it periodically necessary to amend its Land Development Regulations in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, it is the intent of the City Commission to encourage business flexibility and facilitate redevelopment and economic opportunity especially within the Community Redevelopment Area; and

WHEREAS, it is the intent of the City Commission that this Ordinance be enacted to protect and promote the health, welfare, and safety of the citizens of and visitors to the City of Holly Hill by taking steps to prevent economic deterioration and eliminate blight; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of Holly Hill to adopt the proposed amendments to the Land Development Regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. Incorporation of Recitals. The above recitals are incorporated herein by reference and form an integral part of the Ordinance.

SECTION 2. That the entire language of Chapter 6 is repealed and replaced with the following:

Sec. 6.1 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 beverages shall mean any spirit, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume which is fit for beverage purposes, other than medicine or drugs dispensed by drug stores or prescription shops for medical purposes.

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 cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; nightclub; country club; cabaret; meeting facility utilized by any religious, social, fraternal or similar organization; 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 on the premises of such business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

Incidental means that alcohol sales are secondary to food and nonalcoholic beverage sales; the restaurant derives at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages. The revenue percentage shall be computed as the sum of gross food and non-alcoholic beverage revenue divided by the sum of gross food, alcoholic beverage, and non-alcoholic beverage revenue. For purposes of computing alcoholic beverage revenue, an alcoholic beverage shall be attributed the price of the product as offered for individual sale by the licensee.

School means a public or private elementary, middle or secondary school.

Sec. 6.2 - Location restrictions.

(a) No local business tax receipt shall be issued to vendors of establishments dealing in alcoholic beverages that do not meet the minimum distance requirements of this section.

(b) There shall be a minimum distance of 100 feet between an establishment where alcoholic beverages are sold, only in sealed containers for consumption off premises, such as a convenience store, and a school or house of worship.

(c) There shall be a minimum distance of 375 feet between an establishment where alcoholic beverages are sold for consumption on premises, such as a restaurant or bar, from a house of worship or school.

(d) There shall be a minimum distance of 500 feet between an establishment where alcoholic beverages are sold for consumption on premises, such as a restaurant or bar, and a school.

(e) There shall be a minimum distance of 200 feet between an establishment selling beer and wine only, which is incidental to the primary business of selling food, and a house of worship or school.

(f) There shall be no distance requirement between any Type "A" restaurant, serving alcoholic beverages, from a house of worship or a school, if the restaurant holds a valid Special Food Service License pursuant to Rule 61A-3.0141, Florida Administrative Code, and is licensed to serve alcoholic beverages for consumption on the premises by the Division of Alcoholic Beverages and Tobacco.

(g) The minimum distance requirements stated in this section apply equally to houses of worship and schools locating near establishments dealing in alcoholic beverages.

(h) Distance measurements in this chapter shall be measured from the closest point of the real property upon which the alcohol establishment is located to the closest point of the real property upon which another alcohol establishment, house of worship or school is located, except when the alcohol establishment, house of worship or school is part of the shopping center complex in which case the distance is measured from the front door of said use in the shopping center complex. Vacant land owned or leased by an alcohol establishment, house of worship or school that is not part of and incorporated into a larger development shall not be considered to preclude an alcohol establishment. Existing receipts and/or the right to renewal, shall not be affected by the existence of a house of worship or school within the prohibited distance.

Sec. 6.3 - <u>Special Community Redevelopment Area Distance Restrictions.</u>

Within the Community Redevelopment Area boundaries only, any Type A restaurants that sell beer and wine only, which is incidental to the primary business of selling food, may locate anywhere that permits such restaurants, as long as the restaurant's property line does not touch the property line of a parcel upon which a house of worship or school is situated. A special food service license is not required for such restaurants within the Community Redevelopment Area only.

Sec. 6.4 - <u>Hours of Sale.</u>

(a) No establishments dealing in alcoholic beverages, their owners, operators, managers, agents, employees or contractors shall sell or permit to be consumed, be open for business, or permit any person (except on-duty employees of the establishment) to enter or remain within such establishment dealing in alcoholic beverages, except during the hours of 7 am to 2 am.

(b) Nothing contained in subsection (a) of this section shall prevent a business from operating any licensed function unconnected with its operation as an establishment dealing in alcoholic beverages during any lawful hour.

(c) Violation of this section is hereby declared to be a public nuisance and any person owning, or having dominion or control of, any establishment wherein the provisions of this section are violated shall be guilty of an offense and subject to code enforcement and other actions.

Sec. 6.5 - <u>Public consumption or possession of alcoholic beverages.</u>

(a) Except as otherwise provided herein, it shall be unlawful for any person to consume, or to carry in any cup, can or other open or unsealed container, any alcoholic beverage, except in the original package and with the seal unbroken, on any street, sidewalk, roadway, alley, highway, public or semi-public parking lot wherein motor vehicles are parked by the public in conjunction with any business, commercial establishment, hotel or motel, office building or apartment complex; public park, municipal owned building or grounds or any property owned or leased by the city; parking area, doorway or threshold visible to the public at any restaurant, package store, or other commercial establishment licensed for the sale and/or consumption on premises of intoxicating beverages; irrespective of whether such person is in a motor vehicle, bicycle, or other conveyance at the time of the violation. This section shall not prohibit the consumption of lawfully purchased alcoholic beverages on any open deck, patio, porch, or beer garden so long as it is contiguous and permanently attached to the structure of the commercial establishment licensed for the sale and/or consumption on premises of alcoholic beverages during lawful hours of operation.

(b) Wine, beer, and champagne may be served and consumed inside of Sica Hall for approved events. Events at Sica Hall where alcohol is served require that a law enforcement officer be present during the event at the host or applicant's expense. No other alcoholic beverages shall be allowed. No alcoholic beverage shall be served or consumed on public property adjacent to Sica Hall.

(c) Consumption of alcoholic beverages on public property may be allowed with the prior approval of the city commission. The approval shall be at the sole discretion of the city commission, whose decision shall be final.

SECTION 3. That Section 78-14. - Definitions is hereby amended to add underlined terms and remove those ~~stricken through~~ as follows:

~~*Bar* means premises devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any other premises where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises. The word "bar" shall be considered synonymous with the words "saloon," "tavern," "pub," "barroom," "cocktail lounge," "bottle club" and "cabaret."~~

Bar means a premises devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any other premises where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. The word "bar" shall be considered synonymous with the words "saloon," "tavern," "pub," "barroom," "cocktail lounge," "bottle club" and "cabaret."

Brewery, winery, or distillery means an establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer (brewery), or in manufacturing or blending wines (winery), or in distilling and blending potable liquors, including mixing them with other ingredients (distillery). Accessory uses may include retail sales of beer produced on-site for take-away or on-premises consumption as allowed by State licensing laws. This use does not include brewpubs or craft distilleries.

Brewpub means a drinking establishment that produces up to 10,000 kegs (or 155,000 gallons) of fermented malt beverages annually in a single location, primarily for consumption on the premises. Such establishments are licensed by the State as both manufacturers and vendors of malt beverages.

Craft distillery (see "Brewery, Winery, Distillery) means an establishment that produces 75,000 or fewer gallons of distilled spirits per calendar year. Accessory uses include retail sale of distilled spirits produced on-site for take-away or on-premises consumption, as allowed by State licensing laws.

~~*Club, night* means commercial premises where food, alcoholic beverages or other refreshments may be obtained for consumption on the premises and where floorshows or other forms of entertainment may be provided for customers.~~

~~*Nightclub* means a business operated to supply music or entertainment, or both, and which provides meals or beverages, or both, prepared on the premises, seating for not less than 40 persons at tables, a dance floor of at least 300 square feet in area, and a minimum total floor area of at least 2,200 square feet. For purposes of determining the use group classification of a proposed use, substantial compliance with the terms of this definition shall be sufficient.~~

Nightclub means a place of entertainment offering alcoholic beverages for consumption on the premises that may also provide on-site entertainment in the form of live performances, dancing, billiards, comedic performances, or other entertainment activities and that charges a cover charge, door charge, or one (1) time membership fee which is paid at the door; or, there is a minimum drink requirement.

If the establishment does not charge a cover charge, door charge, or one (1) time membership fee which is paid at the door; or, if there is a no minimum drink requirement, then the city may consider any of the following in making the determination that the establishment is a nightclub:

1. Whether there is a dance floor or other open area used by patrons for dancing;

2. Whether the hours of operation where the use is open to the public include time between 12:00 am and 8:00 a.m.;

3. Whether the maximum capacity for the establishment as established by the building official in light of various regulatory provisions is over one-hundred (100) persons. [The fact that the facility may restrict its capacity to some number shall not prevent the building official from applying Code provisions that determine a different and increased capacity. The building official may use various Codes for this purpose (i.e., fire code provisions)];

4. Whether the establishment has a 4-COP liquor license;

5. Whether the establishment advertises as a nightclub;

6. Whether advertisements for the establishment routinely specify specific entertainment engagements (e.g. "XYZ this Saturday and Sunday night;" special engagements; "XYZ sings tonight");

7. Whether the establishment has a stage show or has a stage or platform used in connection with performances or entertainment.

~~*House of worship* means premises used for worship and permitted customary accessory uses by an organization of religious believers.~~

House of Worship means a building or structure, where people regularly assemble to conduct religious worship, ceremonies, and rituals. The building or structure and its accessory buildings and uses are maintained and controlled by a religious body. Places of worship include chapels, churches, mosques, shrines, synagogues, tabernacles, temples, and other similar religious places of assembly. Accessory uses may include administrative offices, classrooms, meeting rooms, and interior cooking and eating facilities. A place of worship may include other uses that generally exist as principal uses-e.g., adult day care center, child care facility, school, cemetery, playground, or other recreational facility. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses.

~~*Restaurant* means premises where meals or prepared food, including beverages or confections, are served to customers. Restaurants are classified as:~~
~~(1) Type A. Restaurants where the customers normally order from individual menus while seated at a table. The order is then normally served by a restaurant employee to the same table and there consumed by the customer. This group also includes cafeterias. Any Type "A" restaurant located within 750 feet of a church or school serving alcoholic beverages other than beer and/or wine shall at all times hold a valid special restaurant license pursuant to Rule 61A-3.0141, Florida Administrative Code.~~

~~(2) Type B. Any restaurant other than type A.~~

Restaurant means an establishment where meals or prepared food, including beverages or confections, are served to customers. The primary source of revenue for such use is derived from food sales. Accessory uses may include, banquet rooms, catering services, pick-up facilities for take-out orders, windows for walk-up service, and outdoor seating. If an establishment can be considered a restaurant or a nightclub, it shall be considered a nightclub.

Restaurants are classified as:
(1) *Type A.* Restaurants where the customers normally order from individual menus while seated at a table. The order is then normally served by a restaurant employee to the same table and there consumed by the customer. This group also includes cafeterias.

(2) *Type B.* Any restaurant other than type A.

School means a public or private school.

Private School means a nonpublic school defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of the statute defining "regular school attendance" or that gives pre-employment or supplementary training in technology or in fields of

trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions governing nonpublic postsecondary education. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. Private schools are nongovernmental educational systems, not considered a part of the public system of education.

Public School means an organization of students for instructional purposes on an elementary, middle, or junior high school; secondary or high school; or other public school level authorized under rules of the State Board of Education.

SECTION 4. SEVERABILITY.
If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful, or unconstitutional, said determination shall not be held to invalidate or impair the validity, force, or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION 5. CONFLICTS.
All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed consistent, however, with the provisions of this Ordinance relative to the transitional application of the land development regulations.

SECTION 6. CODIFICATION. It is the intent of the City Commissioners that the Substantive provision of this Ordinance will become and be made part of the Land Development Regulations of Holly Hill and that the word "ordinance" may be changed to "section", "part", or other appropriate word or phrase, and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that sections 4, 5, 6, and 7 of this Ordinance shall not be codified.

SECTION 7. EFFECTIVE DATE.
That this Ordinance shall become effective immediately upon its adoption.

Chapter 6 - ALCOHOLIC BEVERAGES[1]

Sec. 6-1. - Location restrictions.

(a) No local business tax receipts shall be issued to vendors operating places of business, where beer and wine are sold, only in sealed containers, for consumption off the premises, when his place of business is within 100 feet of an established church or school. No church or school shall be located within a 100 feet of an established business, where beer and wine are sold, only in sealed containers, for consumption off the premises.

(b) No local business tax receipts shall be issued to vendors operating places of business, where consumption of alcoholic beverages, regardless of the percentage of alcoholic content, on the premises is permitted, when his place of business is within 750 feet of an established church or school; provided, however, that where the sale is limited to the sale of beer and wine which is incidental to the primary business of selling food on the premises, distance from an established church or school shall be 200 feet. No church or school shall be located within 750 feet of an established business, where consumption of alcoholic beverages, regardless of the percentage of alcoholic content. No church or school shall be located within 200 feet of an established business where the sale is limited to the sale of beer and wine which is incidental to the primary business of selling food on the premises.

(c) The minimum distances provided herein shall be measured from the nearest point of such place of business to the nearest point of the school or church grounds in use as part of the school or church facilities or property. Existing receipts and/or the right to renewal, shall not be affected by the existence of a church or school within the prohibited distance.

(d) The restrictions in this section do not apply to any type "A" restaurant, as defined in section 78-14 of this code, which serves alcoholic beverages other than beer and/or wine. Such a restaurant must hold a valid Special Restaurant License pursuant to Rule 61A-3.0141, Florida Administrative Code. Licensed by the division of hotels and restaurants, department of business and professional regulations, and which is also licensed to serve alcoholic beverages for consumption on the premises by the division of alcoholic beverages and tobacco of the department of business and professional regulation.

(Code 1984, § 4-1; Ord. No. 2793, § 1, 3-27-07; Ord. No. 2834, § 1, 8-12-08; Ord. No. 2844, § 1, 12-9-08)

Sec. 6-2. - Public consumption or possession of alcoholic beverages.

(a) Except as otherwise provided herein, it shall be unlawful for any person to consume, and for any person other than a licensed beverage salesman or agent to carry in any cup, can or other open or unsealed container, any alcoholic beverage, except in the original package and with the seal unbroken, on any street, sidewalk, roadway, alley, highway, public or semi-public parking lot wherein motor vehicles are parked by the public in conjunction with any business, commercial establishment, hotel or motel, office building or apartment complex; public park, municipal owned building or grounds or any property owned or leased by the city; parking area, doorway or threshold visible to the public at any restaurant, package store, or other commercial establishment licensed for the sale and/or consumption on premises of intoxicating beverages; irrespective of whether such person is in a motor vehicle, bicycle, or other conveyance at the time of the violation. This section shall not prohibit the consumption of lawfully purchased alcoholic beverages on any open deck, patio, porch, or beer garden so long as it is contiguous and permanently attached to the structure of the commercial establishment licensed for the sale and/or consumption on premises of alcoholic beverages during lawful hours of operation.

(b) Wine and champagne may be served and consumed inside of Sica Hall for wedding receptions. No other alcoholic beverages shall be allowed. No alcoholic beverage shall be served or consumed on public property adjacent to Sica Hall.

Attachment: Current Alcohol Regulations - Chapter 6 (2449 : Alcohol Ordinance and Definitions Amendments)

(c) Consumption of alcoholic beverages on public property may be allowed with the prior approval of the city commission. The approval shall be at the sole discretion of the city commission, whose decision shall be final.

(Code 1984, § 15-4; Ord. No. 2535, § 1, 9-22-98; Ord. No. 2696, § 1 7-13-04; Ord. No. 2707, § 1, 9-14-04)

Sec. 6-3. - Hours of sale.

(a) 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 beverages shall mean any spirit, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume which is fit for beverage purposes, other than medicine or drugs dispensed by drug stores or prescription shops for medical purposes.

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 cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; nightclub; countryclub; cabaret; meeting facility utilized by any religious, social, fraternal or similar organization; 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 on the premises of such business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

(b) No establishment dealing in alcoholic beverages, its owners, operators, managers, agents, employees or contractors shall sell or permit to be consumed, be open for business, or permit any person (except on-duty employees of the establishment) to enter or remain within such establishment dealing in alcoholic beverages, except during the hours established in the Charter, section 164.

(c) Nothing contained in subsection (b) of this section shall prevent a business from operating any licensed function unconnected with its operation as an establishment dealing in alcoholic beverages during any lawful hour.

(d) Violation of this section is hereby declared to be a public nuisance and any person owning, or having dominion or control of, any establishment wherein the provisions of this section are violated shall be guilty of an offense.

(Code 1984, § 4-2)

Attachment: Current Alcohol Regulations - Chapter 6 (2449 : Alcohol Ordinance and Definitions Amendments)

ITEMS HIGHLIGHTED IN YELLOW (2nd AND 5th ITEMS ARE THE ONLY ITEMS WHERE DISTANCE CHANGES ARE BEING PROPOSED		
ESTABLISHMENT	DISTANCE REQUIRED IN FEET FROM A CHURCH CURRENT AND PROPOSED	DISTANCE REQUIRED IN FEET FROM A SCHOOL CURRENT AND PROPOSED
Establishment selling alcohol in closed container only for off premises consumption ie: convenience store (city-wide)	100 / 100	100 / 100
Establishment serving alcoholic beverages for on-premises consumption such as a restaurant or bar (city-wide)	750 / **375**	750 / **500**
Establishments serving beer and wine only / incidental to food sales and non-alcoholic beverages (No Type A restaurant nor holder of Special Food Service License) - (city-wide)	200 / 200	200 / 200
Type A restaurant holding a Special Food Service License (alcohol sales incidental) and serving alcohol for on-premises consumption (city-wide)	None / None	None / None
In the CRA only - Type A restaurant (No Special Food Service License) and serving beer and wine only, incidental to sales of food and non-alcoholic beverages, for on-premises consumption	200 / **The only distance restriction is that property lines cannot touch**	200 / **The only distance restriction is that property lines cannot touch**

Attachment: Distances - Current vs. Proposed (2449 : Alcohol Ordinance and Definitions Amendments)

Summary of Requirements to obtain a Special Food Service License

- Must have 2,500 square feet of service area.
- Must be equipped to serve meals to 150 persons at one time.
- Must derive at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages.
- May not operate as a package store and may not sell intoxicating beverages after the hours of serving or consumption of food have elapsed.
- License may not be moved to a new location.

Adopted 9/13/16

FLORIDA DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

61A-3.0141 Special Food Service Licenses.

(1) A qualifying food service establishment receiving a special food service license after April 18, 1972, must have a service area occupying 2,500 or more square feet. The required square footage shall include only the food service establishment's buildings and other contiguous outside areas which are under the management and control of the licensed food service establishment.

(2) An applicant for a special food service license must hold the appropriate food service establishment license issued by the state agency with jurisdiction over the applicant prior to issuance of a temporary or permanent special food service license by the Division of Alcoholic Beverages and Tobacco.

(3) Records of each purchase and each sale of food, alcoholic beverages, and non-alcoholic beverages shall be maintained for a period of 3 years. The required records shall be legible and itemized and shall be made available upon request by the Division.

(4) The required revenue percentage shall be computed as the sum of gross food and non-alcholic beverage revenue divided by the sum of gross food, alcoholic beverage, and non-alcholic beverage revenue. For purposes of computing alcoholic beverage revenue, an alcoholic beverage shall be attributed the price of the product as offered for individual sale by the licensee.

Rulemaking Authority 561.11 FS. Law Implemented 561.01(11), 561.17, 561.18, 561.19, 561.20(2)(a)4., 561.20(4), 561.29, 561.55 FS. History–New 8-23-90, Amended 5-19-91, 10-22-91, Formerly 7A-3.0141, Amended 9-13-16.