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ORDINANCE 2021-798

AN ORDINANCE AMENDING CHAPTER 656, (ZONING CODE), PART 1 (GENERAL PROVISIONS), SUBPART A (BASIC PROVISIONS), SECTION 656.101, (DEFINITIONS), ORDINANCE CODE, IN ORDER TO ADD CRITERIA TO THE DEFINITION OF EXCEPTION OF ALCOHOL RELATED USES; AMENDING CHAPTER 656 (ZONING CODE), PART 1 (GENERAL PROVISIONS), SUBPART D (ZONING EXCEPTIONS, VARIANCES AND WAIVERS, AMENDMENTS TO FINAL ORDER, APPEALS OF WRITTEN INTERPRETATIONS OF THE DIRECTOR AND APPEALS OF FINAL ORDERS OF THE COMMISSION), SECTION 656.131 (ZONING EXCEPTION), SECTION 656.133 (WAIVERS FOR MINIMUM DISTANCE REQUIREMENTS FOR LIQUOR LICENSE LOCATIONS; MINIMUM STREET FRONTAGE REQUIREMENTS; SIGNS; DOWNTOWN PROPERTIES), AND SECTION 656.138 (CONCURRENT APPLICATIONS), ORDINANCE CODE, TO DESIGNATE THE CITY COUNCIL AS THE QUASI-JUDICIAL BODY THAT APPROVES, APPROVES WITH CONDITIONS OR DENIES ZONING EXCEPTIONS FOR ALCOHOL RELATED WAIVERS FOR MINIMUM DISTANCE USES AND REQUIREMENTS FOR LIQUOR LICENSE LOCATIONS AND ADDS CRITERIA FOR SAID DETERMINATION; AMENDING CHAPTER 656 (ZONING CODE), PART 3 (SCHEDULE OF DISTRICT REGULATIONS), SUBPART C (COMMERCIAL USE CATEGORIES AND ZONING DISTRICTS), SECTION 656.313 (COMMUNITY/GENERAL COMMERCIAL

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CATEGORY), ORDINANCE CODE, TO ALLOW MICRO-BREWERIES AS A USE BY ZONING EXCEPTION IN COMMERCIAL COMMUNITY/GENERAL-1 (CCG-1), COMMERCIAL COMMUNITY/GENERAL-2 (CCG-2) AND COMMERCIAL COMMUNITY/GENERAL-SPRINGFIELD (CCG-S) DISTRICTS; AMENDING CHAPTER 656 (ZONING CODE), PART 3 (SCHEDULE OF DISTRICT REGULATIONS), SUBPART C (COMMERCIAL USE CATEGORIES AND ZONING DISTRICTS), SECTION 656.313 (COMMUNITY/GENERAL COMMERCIAL CATEGORY), ORDINANCE CODE, TO PROVIDE THAT ESTABLISHMENTS OR FACILITIES WHICH INCLUDE THE RETAIL SALE OF ALL ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION SHALL BE ALLOWED BY RIGHT ONLY ON PROPERTIES THAT MEET CERTAIN REQUIREMENTS AND ESTABLISHMENTS OR FACILITIES WHICH DO NOT MEET THESE REQUIREMENTS SHALL BE ALLOWED ONLY BY ZONING EXCEPTION; AMENDING CHAPTER 656 (ZONING CODE), PART 8 (ALCOHOLIC BEVERAGES), SECTION 656.802 (DEFINITIONS), SECTION 656.806 (MEASUREMENT OF DISTANCES), ORDINANCE CODE, TO AMEND AND CLARIFY THE DEFINITIONS OF "CHURCH" AND "SCHOOL", TO CLARIFY THE APPLICABILITY FOR THE DISTANCE LIMITATIONS FOR PARTICULAR ALCOHOL RELATED USES AND TO CLARIFY HOW DISTANCES ARE MEASURED FOR ALCOHOL RELATED USES; PROVIDING THAT ANY CURRENT, PERMITTED OR FILED USE NOT IN CONFORMANCE WITH THE AMENDMENTS PROVIDED HEREIN SHALL CONSTITUTE A LAWFULLY NON-CONFORMING USES; PROVIDING AN EFFECTIVE DATE.

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BE IT ORDAINED by the Council of the City of Jacksonville:

Section 1. Amending 656.101 Section (Definitions), Ordinance Code. Section 656.101 (Definitions), Part 1 (General Provisions), Subpart A (Basic Provisions), Chapter 656 (Zoning Code), Ordinance Code is hereby amended to read as follows:

CHAPTER 656 - ZONING CODE

PART 1 GENERAL PROVISIONS

SUBPART A. BASIC PROVISIONS

Sec. 656.101. Definitions

(i) Exception means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permissible in the zoning district as exceptions if specific provision for the exception is made in the Zoning Code and the uses are found by the Commission and the Council to be in conformity with the standards and criteria set forth in Section 656.131(c). In the case of exceptions for telecommunication towers, the supplemental standards and criteria contained in Part 15 shall also apply. In the case for exceptions for alcohol related uses, it shall constitute a rebuttable presumption that the proposed exception meets the definition of exception and the criteria in Section 656.131(c) where the proposed exception is the current lawful use or prior lawful use of the same property or a portion thereof. For purposes of this subsection "prior use" shall mean within the previous year from the date of the hearing on the exception.

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Section 2. 656.131 Amending Chapter Section (Zoning Exceptions), Ordinance Code. Section 656.131 (Zoning Exceptions), Section 656.133 (Waivers for Minimum Distance Requirements for Liquor License Locations; Minimum Street Frontage Requirements; Signs; Minimum Distance Requirements for Medical Marijuana Dispensing Section 656.138. (Concurrent Facilities; Downtown Properties), applications) Part 1 (General Provisions), Subpart D Exceptions, Variances and Waivers, Amendments to Final Order, Appeals of Written Interpretations of the Director and Appeals of Final Orders of the Commission, Part 1 (General Provisions), Chapter 656 (Zoning Code), Ordinance Code is hereby amended to read as follows:

CHAPTER 656 - ZONING CODE

* * *

PART 1. GENERAL PROVISIONS

* * *

SUBPART D. - ZONING EXCEPTIONS, VARIANCES AND WAIVERS, AMENDMENTS TO FINAL ORDER, APPEALS OF WRITTEN INTERPRETATIONS OF THE DIRECTOR AND APPEALS OF FINAL ORDERS OF THE COMMISSION

* * *

Sec. 656.131 - Zoning Exceptions

(a) A proposal for a zoning exception may be initiated only upon an application for zoning exception filed with the Department by the owner or his authorized agent. An application for a zoning exception under the Zoning Code shall be in writing and in the form prescribed by the Department Commission. Information required on the application may include, for example, the name and address of the owner and the agent, the property address and location, and a legal description and real estate assessment number(s). Other information may include the current zoning of the property, the exception

being sought, a list of owners of property within 350 feet, identification of any previous zoning applications for the property during the preceding five years and statements indicating how the standards and criteria for exceptions which are set forth herein will be met. An application shall be accompanied by a site plan drawn to an appropriate scale showing the property as it is intended to be developed or modified pursuant to the application for exception. The site plan must show the following:

- (i) Property dimensions;
- (ii) Buildings and dimensions;
- (iv) Loading and unloading area, if applicable, with turn
 around and dimensions;
- (v) Landscaped areas and dimensions;
- (vi) Ingress and egress (driveways, alleys and easements);
- (vii) Adjacent streets and right-of-way;
- (viii) North arrow and graphic scale;
- (ix) Signage (if any);
- (x) Buildings setbacks and buffer (including dimensions);
- (xi) Adjacent current property uses;
- (xii) Adjacent zoning districts;
- (xiii) Total land area; and
- (xiv) Total building coverage area.

Additional items may be required, to the extent applicable, as required by any site review guidelines which may be promulgated by the Department from time to time. The site plan, as approved, shall be binding upon the exception, if granted. Upon receipt of the application, the Zoning Administrator shall determine whether the application is complete within five (5) working days. If it is

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determined that the application is not complete, written notice shall be provided to the applicant specifying the deficiencies. The Zoning Administrator shall take no further action on the application until the deficiencies are remedied. When the application is determined to be complete, all fees must be paid as specified in Section 656.147.

this section, for alcohol-related (e) For purposes of zoning exceptions, all preceding references to "Commission" shall mean the Council. Alcohol-related zoning exception applications shall be considered by the Council which shall apply the criteria set forth in Section 656.131(c) and the definition of exception. Prior to Council's hearings on the application, the Commission shall hear the application at a publicly noticed meeting and make a recommendation of approval, denial or approval with conditions to the Council based upon the criteria set forth in Section 656.131(c) and the definition of exception. The Department shall be responsible for making an advisory recommendation with respect to each application for an alcohol-related zoning exception. Public hearings for alcohol-related zoning exceptions shall be noticed in the same manner as required for rezonings as set forth in Section 656.137.

Sec. 656.133 - Waivers for Minimum Distance Requirements for Liquor License Locations; Minimum Street Frontage Requirements; Signs; Minimum Distance Requirements for Medical Marijuana Dispensing Facilities; Downtown Properties.

Waivers for minimum distance requirements for liquor license (a) locations; waiver criteria. Applications for minimum distance requirements for liquor license locations shall be considered by the Commission Council pursuant to the criteria set forth in this subsection in accordance with the notice and public hearing requirements set forth in Section 656.137. Prior to

Council's hearings on the application, the Commission shall hear the application at a publicly noticed meeting and make a recommendation of approval, denial or approval with conditions to the Council in the same manner as the Commission based upon the criteria set forth in this subsection for zoning exceptions set forth in Section 656.131. Applications for waivers shall be in writing on the form prescribed by the Commission Department and filed with the Department together with the required number of copies and all required attachments. Upon receipt of the application, the Zoning Administrator shall determine whether the application is complete within five working days. If it is determined that the application is not complete, written notice shall be provided to the applicant specifying the deficiencies. The Zoning Administrator shall take no further action on the application until the deficiencies are remedied. When the application is determined to be complete, all fees must be paid as specified in Section 656.147.

The waiver for minimum distance requirements from a <u>eC</u>hurch or <u>eS</u>chool for a liquor license location <u>may shall</u> be granted if there exist one or more circumstances which negate the necessity for compliance with the distance requirements, including, but not limited to the following:

- (1) The commercial activity associated with the alcoholic beverage use is of a lesser intensity than the commercial activity associated with the alcoholic beverage use which previously existed on the same property or portion thereof; e.g., there has been a reduction in the number of seats or square footage or the type of license;
- (2) The alcoholic beverage use is designed to be an integral part of a mixed planned unit development. The alcoholic

beverage use is supplemental and subordinate to the primary use of the property such as: a hotel, motel, golf course, grocery store, sports facility or other use;

- (3) The alcoholic beverage use is located within a shopping center with an aggregate gross leasable area of 50,000 square feet or more, inclusive of all outparcels and meets the definition of a "bona fide restaurant", as defined in Section 656.805(c);
- (4) The <u>building within which the</u> alcoholic beverage use <u>is</u>

 <u>proposed</u> is not directly visible <u>from the grounds</u>

 <u>actively used as part of the Church or School along the</u>

 <u>line of measurement defined in Section 656.806 and is</u>

 <u>physically separated from the church or school, thereby</u>

 <u>negating the distance requirement as a result of the</u>

 <u>extra travel time; or</u>
- (5) The Church within the applicable distance limitation is located within a zoning district or districts which allow, by right or exception, the same alcoholic beverage use that is sought by the applicant; or
- (6) There are other existing liquor license locations of a similar nature in the immediate vicinity of the proposed location; provided, however, that no waiver shall be granted pursuant to this criterion if the proposed liquor license location is closer to the church or school than other existing locations.

* * *

Sec. 656.138. - Concurrent applications.

Applications on the same property, except for those properties located in the Downtown Overlay Zone, which include one or more combinations for zoning exception(s) and/or variance(s) and/or

administrative deviation(s) and/or waiver(s) for minimum distance requirements for liquor license locations and no rezoning of land may be processed and approved or disapproved in a concurrent manner by the Planning Commission, except for those which require City Council approval, which shall be approved or disapproved in a concurrent manner by the City Council. For administrative deviations heard by the Planning Commission, pursuant to this section, the Planning Commission shall apply the criteria set forth in section 656.109, Ordinance Code. Appeals of Planning Commission decisions administrative deviations, pursuant to this section, processed consistent with sections 656.140, 656.141, 656.142, 656.143, 655.144 and 656.145, Ordinance Code. Applications on the same property, except for those properties located in the Downtown Overlay Zone, which include a rezoning, waiver for the minimum street frontage requirement and/or sign waiver and one or more of the exception(s) and/or variance(s) following: zoning administrative deviation(s) and/or waiver(s) for minimum distance requirements for liquor license locations may be processed and approved or disapproved in a concurrent manner by the City Council. For zoning exception(s), variance(s), administrative deviation(s) and/or waiver(s) for minimum distance requirements for liquor license locations heard by the City Council, pursuant to this section, the City Council shall apply the criteria set forth in sections 656.131, 656.132, 656.109, and 656.133, Ordinance Code, respectively. City Council decisions on zoning exception(s), variance(s), administrative deviation(s) and/or waiver(s) for minimum distance requirements for liquor license locations, pursuant to this section shall be deemed the final action of the City.

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Section 5. Amending Part 3 (Schedule of District Regulations), Chapter 656 (Zoning Code), Ordinance Code. Part 3

1	(Schedule of District Regulations), Chapter 656 (Zoning Code),
2	Ordinance Code: is hereby amended to read as follows:
3	CHAPTER 656. ZONING CODE
4	* * *
5	PART 3. SCHEDULE OF DISTRICT REGULATIONS
6	* * *
7	SUBPART C. COMMERCIAL USE CATEGORIES AND ZONING DISTRICTS
8	* * *
9	Sec. 656.313 Community/General Commercial Category
10	* * *
11	A. Primary zoning districts. The primary zoning districts shall
12	include the following:
13	* * *
14	IV. Commercial Community/General-1 (CCG-1) District.
15	* * *
16	(a) Permitted uses and structures
17	* * *
18	(11) An establishment or facility which includes the retail sale
19	and service of beer or wine for off-premises consumption
20	or an establishment or facility which includes the retail
21	sale and service of all alcoholic beverages, including
22	liquor, beer or wine, for on-premises consumption in
23	conjunction with a restaurant.
24	* * *
25	(c) Permissible uses by exception
26	* * *
27	(23) A brewery which produces of up to ten thousand
28	(10,000) barrels per year of beer, mead and cider
29	(aggregate). Up to thirty (30) percent of total
30	production may be distributed off-site to a licensed
31	distributor. The brewery may include the retail or

wholesale sale and service of beer, cider, mead and/or wine for on-premises consumption and/or off-premises consumption not in conjunction with the service of food including permanent or restricted outside sale and service that meet the performance standards and development criteria set forth in Part 4 of the Zoning Code. The beer, cider, mead or wine sold or served may be produced on-site or off-site.

* * *

V. Commercial Community/General-2 (CCG-2) District.

* * *

(a) Permitted uses and structures

* * *

(27) An establishment or facility which includes the retail sale of all alcoholic beverages including liquor, beer or wine for off-premises consumption that is either: (i) located on property which is more than one-half (1/2) acre in area and for which the establishment or facility is larger than five thousand (5,000) square feet in size or (ii) is immediately adjacent to a grocery store or in the same shopping center as a grocery store and is owned by the same person or entity as the grocery store or a related corporate entity to the owner of the grocery store.

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(30) An establishment or facility which includes the retail sale of beer or wine for off-premises consumption or for on-premises consumption.

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(c) Permissible uses by exception

* * *

(5) An establishment or facility, that is not a restaurant, which includes the retail sale and service of all alcoholic beverages including liquor, beer or wine for on-premises consumption.

* * *

- (16) A brewery which produces of up to ten thousand

 (10,000) barrels per year of beer, mead and cider

 (aggregate). Up to thirty (30) percent of total

 production may be distributed off-site to a licensed

 distributor. The brewery may include the retail or

 wholesale sale and service of beer, cider, mead and/or

 wine for on-premises consumption and/or off-premises

 consumption not in conjunction with the service of

 food including permanent or restricted outside sale

 and service that meet the performance standards and

 development criteria set forth in Part 4 of the Zoning

 Code. The beer, cider, mead or wine sold or served

 may be produced on-site or off-site.
- (17) An establishment or facility which includes the retail sale and service of liquor for off-premises consumption that does not meet the criteria set forth in Sec. 656.313(A)(V)(a)(27).

* * *

Section 6. Amending Subsection 656.368 (Springfield Historic Zoning Districts), Ordinance Code. Subsections 656.368 IV.(c) (Community/General Commercial Category), Subpart I (Springfield Zoning Overlay and Historic District Regulations) Part 3 (Schedule of District Regulations), Chapter 656 (Zoning Code),

1 Ordinance Code is hereby amended to read as follows: 2 CHAPTER 656. ZONING CODE 4 5 PART 3. SCHEDULE OF DISTRICT REGULATIONS 6 SUBPART I. SPRINGFIELD HISTORIC ZONING DISTRICTS 8 9 Sec. 656.368. - Community/General Commercial Category 10 Springfield Historic Zoning Districts include the following: 11 12 IV. Commercial Community/General-Springfield (CCG-S) District. 13 (a) Permitted uses and structures. 14 15 (15) An establishment or facility which includes the retail sale 16 17 and service of beer or wine for off-premises consumption or the retail sale and service of all alcoholic beverages, 18 19 including liquor, for on-premises consumption in 20 conjunction with a restaurant the service of food which is 21 ordered from a menu and prepared or served for pay for 22 consumption on-premises. 23 24 (c) Permissible uses by exception. 25 26 (13) A brewery which produces of up to ten thousand (10,000) 27 barrels per year of beer, mead and cider (aggregate). Up 2.8 to thirty (30) percent of total production may be 29 distributed off-site to a licensed distributor. The brewery may include the retail or wholesale sale and service of 30

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beer, cider, mead and/or wine for on-premises consumption

(d)

and/or off-premises consumption not in conjunction with the service of food including permanent or restricted outside sale and service that meets the performance standards and development criteria set forth in Part 4 of the Zoning Code. The beer, cider, mead or wine sold or served may be produced on-site or off-site.

* * *

Section 7. Amending Subsection 656.802 (Definitions), Ordinance Code. Subsection 656.802 (Definitions), Part 8 (Alcoholic Beverages), Chapter 656 (Zoning Code), Ordinance Code is hereby amended to read as follows:

CHAPTER 656. ZONING CODE

* * *

PART 8. ALCOHOLIC BEVERAGES

* * *

Sec. 656.802 - Definitions

* * *

For purposes of Part 8 and Section 656.133, Church means a building used principally as a place wherein persons regularly assemble for religious worship, including sanctuaries, chapels and cathedrals and on-site buildings adjacent thereto, such as parsonages, friaries, convents, fellowship halls, Sunday schools and rectories, but not including day care centers, community recreation facilities, and private and/or secondary educational facilities. This definition does not include property owned by a religious organization wherein persons do not regularly assemble for religious worship or property which is not in compliance with the current version of the zoning code, ordinance code, building code, fire code or any other applicable regulations.

(f) For purposes of Part 8 and Section 656.133, School means a private or public educational institution offering students an academic curriculum, including kindergartens, elementary schools, high schools, day care for children or after-school care for children colleges and universities.

* * *

Sec. 656.805. - Distance limitations.

Except as provided in other Sections, the distance limitations for on- and off-premises consumption of alcohol, beer and/or wine shall be as follows:

- (a) There shall be no <u>distance</u> limitations for <u>the sale of beer</u> or wine for <u>the off-premises</u> consumption <u>of beer and wine</u>.
- (b) There shall be not less than 500 feet from an established sSchool, or eChurch or adult entertainment or service facility, a retail facility which sells liquor for off-premises consumption of alcoholic beverages, including beer and wine, and not less than 500 feet from an established adult entertainment or service facility.
- c) There shall be not less than 500 feet from an established sschool or eChurch for a restaurant serving alcoholic beverages for on-premises consumption, that does not qualify as a nightclub pursuant to Section 656.1601, Ordinance Code.
- (d) There shall be not less than 1,500 feet from <u>a</u> an established sSchool or eChurch a facility which serves alcoholic beverages for the on-premises consumption of alcoholic beverages, unless said facility is a restaurant not in conjunction with the service of food, except as specifically provided herein.
- (e) These distance limitations shall not apply to a $\pm S$ chool or $\pm C$ hurch located in a CN, CCG-1, $\pm C$ CCG-2 or CCG-S zoned

district if the church or school is on a parcel of land with an unrelated principal use.

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Sec. 656.806. - Measurement of distances.

With respect to the distance between a location for which a liquor license is proposed and an established eChurch, eSchool or adult entertainment facility the distance shall be measured by following a straight line from the nearest point of the building or portion of the building used as part of the proposed location to the nearest point of the grounds actively used as part of the eChurch, eSchool facilities, or adult entertainment facility.

* * *

Section 8. Non-conforming Uses. Any current uses as of the date of this ordinance or uses for which permits and applications for said uses have been submitted prior to the date of this ordinance shall be considered legally non-conforming uses.

Section 9. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:

/s/ Paige H. Johnston

Office of General Counsel

Legislation Prepared By: Zach Miller

27 GC-#1462897-v2-Diamond Gaffney Alcohol Limitations.docx