

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 16-19

AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING §4-869, REGULATIONS AND PROCESSES FOR DEVELOPMENT WITHIN THE OLD U.S. 41 REDEVELOPMENT URBAN CORE, AND §4-1023, SALE OR SERVICE FOR ON-PREMISES CONSUMPTION, TO REVISE THE CONSUMPTION ON PREMISES REQUIREMENTS IN THE OLD 41 REDEVELOPMENT AREA; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes §166.021 authorizes the City of Bonita Springs to establish, coordinate and enforce laws that are necessary for the protection of the public; and

WHEREAS, Bonita Springs City Council finds that revising its Consumption on Premises in the Old U.S. 41 Redevelopment Urban Core will promote redevelopment activities by adopting amendments which (1) permit by right indoor consumption on premises associated with a tavern or microbrewery, with a special exception for consumption on premises only for outdoor seating areas for a tavern or microbrewery; (2) requiring administrative approval for consumption on premises in indoor and outdoor seating areas associated with Restaurants, Group II-IV.

THE CITY OF BONITA SPRNGS HEREBY ORDAINS:

SECTION ONE: BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4

Section 4-869 and §4-1023, in the City of Bonita Springs Land Development Code Chapter 4 are amended to read as follows, with strike-through identifying deleted language and underline identifying additional language:

Sec. 4-869. - Regulations and processes for development within the Old U.S. 41 Redevelopment Urban Core.

In addition to the regulations contained in section 4-871, all development within the Old U.S. 41 Redevelopment Urban Core (as depicted in Exhibit II) shall be subject to the following:

- (1) *Design review meeting and submission requirements for the Old U.S. 41 Redevelopment Urban Core.*
 - a. The review process is to help guide the planning and design of projects and buildings within the Urban Core of the Old U.S. 41 Corridor Redevelopment Area as defined in the master plan. The intent of the review is to strive to create a genuine downtown area with well-designed and sensible buildings that work together harmoniously, while the individual buildings themselves are different. The city's objective is to encourage high quality development that will be of benefit to its residents and others for generations to come. The

purpose of the review is to encourage a design approach and product that is compatible with southwest Florida's cultural and geographical context. The design process should incorporate the natural and manmade environmental conditions, as well as the social and economic milieu that any development within or near the town center needs to accommodate. The review is to encourage good design and good buildings that fit within the context of the downtown area.

- b. Consistent with section 3-487(f), a reviewer will offer advice and recommendations concerning the applications for each specific development.
- c. When any property owner has a project requiring new, rehabilitated or remodeled building within the Old U.S. 41 Redevelopment Urban Core area, the applicant must submit during the design phases of any project, including hardscape improvement designs proposed on any properties within the area, regardless of whether a building is involved (for example, the proposed layout of a parking lot).
- d. The owner or authorized representative shall attend the review meeting if this is a major impact project. A review meeting may be needed for a minor impact project, depending on the submitted materials.
 1. A minor-impact project is one that does not involve structural changes except replacement with identical materials. It can be accommodated by either an informal meeting or by providing the reviewer with simple illustrations, drawings, or diagrams that clearly indicate the intent of the design of the project in its relation to the streetscape. The reviewer can then determine whether a meeting is necessary. Examples of a minor impact project include the addition of a sign, an awning, replacing of windows or doors, or the repainting of a façade, or other such minor improvement to a building. An owner, or tenant, or a representative thereof, such as a sign company, awning company, graphics firm, etc., may make the presentation to the reviewer for the applicant, if needed.
 2. All other projects not considered minor shall be deemed major impact projects. For any architectural projects determined to have a major impact, the Florida-licensed architect or engineer responsible for the design of the building or the project and its buildings shall make submissions and presentations to the reviewer. For a planning concept project, the Florida planner or planning entity, the Florida-licensed landscape architect or architect responsible for the planning of the project shall make submissions and presentations to the reviewer. For a landscape design project, a Florida-licensed landscape architect shall make submissions and presentations to the reviewer. The professionals involved in the design will be referenced throughout this article as the designer. For the first meeting (or others as required by the process or the reviewer) the designer shall be present at the meeting and make the presentation of the project to the reviewer. A dialogue between the designer and the reviewer shall follow the presentation in a cooperative and constructive manner: designer-to-designer. At the conclusion of the discussions, the reviewer will provide specific and general statements regarding the projects conformance with the regulations and design standards as set forth in subsections (b) (building and site uses) and (c) (architectural standards) of this section.
- e. Major impact projects: the design review meetings and submissions.
 1. A major impact project is any project not considered a minor impact project in this section.
 2. Optional pre-design dialogue: The designer may schedule with the reviewer a pre-design meeting to discuss the process and its intent.
 3. The applicant designer of any major impact project should deliver designs for a building or project at least two weeks prior to the meeting. Elements to be submitted at the first design meeting:

- (i) A contextual site plan of the project and surrounding areas within 200 feet of the subject property. (Images taken from Google Earth would be an appropriate base map upon which the project may be inserted and notes regarding contextual features may be added);
- (ii) Photos of the street façades of both sides of the street on which the project is proposed:
 - A. Site plan and building footprint to scale, including the landscaping concept. Key or critical elements on the site plans and sections need to be dimensioned. Provide drawings at a scale appropriate to the design and sufficient to be legible to the reviewer. A minimum scale is one-sixteenth inch = 1.0 feet for architects and one inch = 30 feet for engineers;
 - B. Site section from back lot line (or across alley), through the site, then across the fronting street to the other side, and including the proposed building or buildings in section, to scale;
 - C. 3D graphics of project exterior views, sufficient to explain the project in its context. Provide the drawings in color. (While color and material is important, the emphasis is on form, context, volume, and so on); and
 - D. Other illustrations or exhibits the designer feels are warranted or may be helpful.

The designer may use whatever medium he wishes to present to the reviewer, but the designer should be aware of the limitations of the venue for the presentation. However, in addition to the materials used for the presentation, please also provide a package of the presentation materials in an 8½ x 11 bound format for the reviewer's records, to be maintained at community development.

Note: All materials shall have the designers or designers firms name along with the Florida license number and date.

- E. Within three working days from the first meeting, the reviewer will provide to the applicant individual written findings and recommendations.
- 4. *Development orders and/or building permit stage.* Plans submitted to community development for plan review will be examined, and considered in light of the reviewer's findings and recommendations, to determine if the plans are consistent with the design review provisions.
- f. Minor-impact projects: the design review meetings and submissions.
 - 1. For minor impact projects as defined in this section, submissions below are required, and unless additional information is needed by the reviewer or if the designer requests otherwise, no meeting is required. While there is not a set time prior to a scheduled design meeting, the owner or authorized representative of any minor-impact project should deliver designs for a building or project at least two weeks prior to the meeting. If it is determined that the project is to be deemed a major-impact project, the applicant will be notified as soon as possible prior to the meeting.
 - 2. Design meeting, if applicable. The design meeting will be held at the earliest point of concept or schematic design that the designer responsible for the design can bring the schematic to the reviewer. (The applicant should contact the city manager or designee at least ten working days in advance of a regularly scheduled meeting.) At the meeting, the projects designer must provide enough information to the reviewer that mutual dialogue will be productive. Others may be in attendance, but the dialogue will be among the designers only, with opportunity for other comment. The objective is that the review process generate ideas and suggestions that will result in an appropriate design for the redevelopment area.

3. Elements to be submitted at the design meeting.
 - (i) A contextual site plan of the project and surrounding areas within 200 feet of the subject property. (Images taken from Google Earth would be an appropriate base map upon which the project may be inserted and notes regarding contextual features may be added.) This step may be omitted if the project is a repainting of a building or façade or a proposed sign or other such very simple improvement.
 - (ii) Photos of the street façades of both sides of the street on which the project is proposed.
 - (iii) Elevations (to scale) or, as an alternative, 3D graphics of the improvement, sufficient to explain the design. Provide the drawings, sketches, or diagrams in color.
 - (iv) Any other illustrations or exhibits the designer feels are warranted or may be helpful. The designer may use whatever medium he or she wishes to present to the reviewer, but the designer should be aware of the limitations of the venue for the presentation. However, in addition to the materials used for the presentation, please also provide a package of the presentation materials in an 8½ x 11 bound format for the records to be maintained at community development.
 - (v) Within three working days from the design meeting, the reviewer will provide to the applicant and the community development its written findings and recommendations.
 - (vi) The findings shall reflect the reviewer's determination whether the development plans are consistent with the regulations and standards set forth in subsections (b) and (c) of this section.
 - (vii) The reviewer's recommendations may include suggestions for more appropriate alternative allowable materials or standards. Where the reviewer determines that a design aspect is appropriate but is otherwise prohibited or discouraged by the provisions of subsections (b) or (c) of this section, the reviewer may include a recommendation to allow an administrative deviation. Such recommendations may involve, but are not limited to, elements such as automatic doors, colors and materials, awnings, the location of outside dining chairs and tables, etc.
- g. Upon receiving a recommendation and implementing possible revisions, the applicant may continue with community development for review. Plans submitted to the community development will be examined and considered in light of the reviewer's findings and recommendations, to determine if the plans are consistent with the provisions of this section and section 4-870

(2) *Building and site uses.*

- a. *Applicability.* Only to areas within the Old U.S. 41 Redevelopment Urban Core as depicted in Exhibit II. Uses not specifically listed under permitted shall be prohibited, unless the proposed uses has similar traffic, patronage, intensity and characteristics similar to those cited therein. The determination of similarity shall be determined by the director of community development.
- b. *Permitted uses.*

TABLE 4-869

	Special Notes or Regulations	Urban Village Sub-	Urban Core North	Urban Core South	Public and Recreational Uses	Hospitality Sub-Areas 8A and 8B	Commercial Industrial Flex

		Areas 1 and 6B	Sub- Area 3A	Sub- Area 6A	Sub-Areas 7 and 9		Sub-Area 11
Antiques, retail		P	P	P			P
Animal hospitals with boarding of animals in completely enclosed building			P				P
Apparel and accessories, except second hand		P	P	P		P (1)	
Art galleries, studios and services		P	P	P	P	P	P
Banks and financial services (excluding drive through)			P	P			
Bed and breakfast inns						P	
Bed and bath boutiques		P	P	P			
Barber or beauty salons			P	P			
Billiard and pool establishments			P	P			
Bicycle shops (including repair)			P	P			P
Microbrewery, with ancillary tasting room	4-1023 et seq. <u>Note</u> <u>(11)</u>	P	P	P			P
Cards/gifts stationery		P	P	P			

Caterer	4-1023 et seq.	P	P	P	-	P(1)	-
Child or adult daycare center			P	SE	SE		
Community centers				SE	P		
Conference center		P				P	
Consumption on premises	4-1023 et seq. <u>Note (13)</u>	P	P	P	P	P (1)	<u>P</u>
Convenience food and beverage store (no fuel pumps)		-	SE	-	-	-	-
Crafts/fabrics			P	P			
Dance, martial arts or music studios		P	P	P			P
Decorative Arts, Manufacturing	Note (9)						P
Donated goods	Note (8)	-	SE	-	-	-	-
Drugstore/pharmacies			P	P			
Dry cleaning pickup stations, excluding drive-thru			P	P		P (1)	
Elementary/Middle School					P		
Entertainment courtyard or architectural arcade	4-1023 et seq.	P	P	P			

Fire and sheriff stations					P		
Flowers/florist		P	P	P		P (1)	
Furniture			P	P			
Furniture, Manufacturing	Note (9)						P/SE
Hardware			P				P
Health clubs/wellness centers (under 10,000SF)		P	P	P	P	P (1)	P
Hotel						P	
Interior decorators			P	P			P
Internet Café - No slot machine or devices under FS §849.16	4-1023 et seq.	P	P	P	P	P(1)	P
Libraries					P	P	
Luggage/leather goods		P	P	P			
Jewelry (including repair but not pawnshop)		P	P	P		P(1)	
Kitchenware; housewares		P	P	P			
Mail packaging services		P	P	P	-	-	-
Marine supplies, retail			P				P
Medical offices	Note (2)	P	P	P			
Indoor theaters	4-1023 et seq.	P					
Museums		P	P	P	P		

Musical entertainment	Note (10)	AA/SE	AA/SE	AA/SE			AA/SE
News/bookstores		P	P	P		P (1)	
Newsstand		P	P	P		P (1)	
Nightclub or similar entertainment venue	4-1023 et seq.; Note (10)	AA/SE	AA/SE	AA/SE		AA/SE (1)	AA/SE
Office supplies			P				
Open market building				P	P	P(1)	P
Optical goods		P	P	P			
Outdoor seating for dining purposes	4-1023 et seq. (Note 13)	AA	AA	AA		P(1)	AA
Package stores for sale of alcoholic beverages	4-1022 et seq.	P	P	P			P
Parking lot as a principal use			P		P	P (1)	
Parking structure	Notes (1) & (4)	P/SE	P/SE	P/SE	P/SE	P (1)	P/SE
Pet day care (indoor only)		SE	SE	SE	-	-	-
Pet grooming (no overnight boarding or kenneling)		P	P	P	-	-	-
Pet shops		P	P	P			
Photographic services/studios (including repair)		P	P	P			

Playground/park					P	P	P
Professional offices	Note (2)	P (2)	P	P (2)			P
Public building or use		P	P	P	P		P
Radio or television stations (but not wireless communication facilities)			P				P
Religious assembly/Place of worship		SE	SE	SE	EO/SE		SE
Residential Townhome		P		P (5)			
Residential multifamily	Notes (5) & (6)	P	P (6)	P (5)			
Restaurant excluding Group I (Food Stands under 4-408(c)(42) and mobile food vendors as governed in the supplementary regulations) and drive thru	<u>Note 13</u>	P	P	P	P	P	P
Retail specialty foods (including incidental sale of prepared food)	Notes (1) & (12) 4-408 (c)(15)	P	P (12)	P		P (1)	
Shoes		P	P	P			
Shoe repair			P	P			
Sporting goods			P				
Tobacconist		P	P	P			P

Tailors, drapers or dressmakers			P	P		P (1)	P
Tavern	4-1023 et seq. Note (11)	P	P	P		P (1)	P
Television/camera and electronics (including repair incidental to sales)			P	P			P
Travel agencies			P	P			
Toys		P	P				
Universities, colleges, academies and similar post-secondary educational facilities			P				
Urban Gardens	Note (3)				P		
Upholstery shops (furniture refinishing limited to small shops, not to include full scale manufacturing facilities)	Note (9)		P				P
Zoo or Botanical Garden		P	P			P	P

Notes:

- (1) Permitted as an accessory use when designed and intended primarily for use by patrons staying at the hotel
- (2) Second story only.
- (3) Ancillary to public use.
- (4) Public parking owned by government and parking for a mixed use project is permitted by right as an ancillary use, with private parking facilities as a primary use permitted by special exception.
- (5) Residential uses are permitted as part of a mixed use project.
- (6) A residential apartment is permitted by right as an ancillary use.

- (7) Botanical gardens only.
- (8) Donated goods store. A retail use for the acceptance and sale of new or used merchandise, excluding furniture and major appliances, subject to compliance with the following conditions:
- a. No more than 20 percent of the total floor area shall be utilized for receiving, sorting and storage of donated goods and shall be separated by a solid wall from the retail area; and
 - b. The existing or proposed building and site shall be consistent with the urban core design guidelines subject to review by community development and the city's architect;
 - c. All applications for a donated goods store shall follow the development order review procedure outlined in LDC 3 unless stated otherwise herein.
 - d. The donated goods store shall be operated at all times by an organization that has been incorporated as a not-for-profit organization under the laws of Florida for a charitable purpose and that has been declared exempt from the payment of Federal Income Taxes by the United States Internal Revenue Service; and
 - e. Any and all donated goods must be accepted by personnel directly employed by or volunteers for the not-for-profit organization only during business hours; and
 - f. All monetary proceeds resulting from the sale of said merchandise must be used in accordance with the organization's charitable purpose to benefit Southwest Florida; and
 - g. The operation of the donated goods store, the collection and use of the donations and proceeds thereof must be conducted by the not-for-profit organization and not by a licensee, subtenant, subcontractor or agent of the not-for-profit organization.
- (9) Manufacturing of furniture and decorative arts, including welding, is permitted indoors by right. If any display or manufacturing of items is to occur outdoors, then a special exception is required.
- (10) Non-amplified indoor live entertainment may be reviewed administratively. If the director determines that administrative approval is not the appropriate action, the applicant must apply for approval as a special exception. Such circumstances may include the previous denial by the director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. All amplified music (indoors or outdoors) requires approval as a special exception.
- (11) Permitted by right for indoor activities only. If planned for outdoor use, special exception is required. See also LDC § 4-1023.
- a. Commercial and residential uses are required to a minimum depth of 30 feet, or the second layer, from the frontage line on all stories. The remaining depth may be used for parking. (See Exhibit III for visual of layer.) Parking exposure on a frontage line shall be an opening not wider than 25 feet.
 - b. Seating for outdoor dining shall be permitted to encroach the public sidewalks adjacent to the private property leaving a five-foot clear pedestrian passage between the outdoor dining and the right-of-way landscaping or paved roadway.
 - c. Uses such as bus shelters and public art shall be permitted throughout the corridor.
- (12) Manufacturing of specialty foods, per LDC § 408(c)(15), Groups II and III, is permitted as an ancillary use.
- (13) Administrative approval required for indoor and outdoor consumption on premises associated with Restaurants, Group II-IV. See also LDC § 4-1023.
- (3) *Architectural standards.* Buildings shall be subject to the following physical requirements:
- a. *Applicability.* Only to areas within the Old U.S. 41 Redevelopment Urban Core as depicted in Exhibit II.
 - b. *Building height.* The various elements of building height shall be determined as follows:

1. Buildings shall be a maximum 52 feet in height from the minimum required flood elevation.
 2. Height shall be measured from the first finished floor to the eave line, provided they meet all buildings and safety codes.
 3. Finished and habitable attic spaces may be above the eave line.
 4. The façade of the first story at sidewalk level shall be expressed at no less than ten feet in height from finished floor to finished ceiling, no more than 15 feet from first floor to the second floor as expressed on the exterior façade.
 5. A transition line shall be provided at the top of the first story. The transition shall be detailed to receive an awning. A transition line shall be expressed by a material change, by a trim line, a sign band, or by a balcony.
- c. *Building placement.* Buildings and their elements shall be placed on their lots as follows:
1. *Front setback.*
 - (i) *First story.* First story façades shall have no required minimum front setback but a maximum setback of 12 feet. Awnings, awning roof structures, arcades, or other similar attached structures may satisfy this requirement.
 - (ii) *Second story.* Second story façades shall have a mandatory setback of no more than ten feet from the property line. When the first story extends into the first layer zone, second story balconies that extend over the first story shall extend across the entire front façade. Awnings are permitted over second story balconies. See definitions and tables for definition of layer and diagram in Exhibit III.
 - (iii) *Third story and above.* Third story and above façades may align with the second story façade. Third story and above balconies shall be recessed, shall not extend beyond the second story façade. The plane of the roof shall not exceed beyond the third story and above balconies.
 2. *Streetwall.* In the absence of a building façade, a streetwall shall be built aligned with an adjacent building façade. Streetwalls shall be between two and one-half and three and one-half feet in height and made of a material matching the adjacent building or a continuous, maintained hedge. Streetwalls may have openings no greater than 25 feet to allow automobile and pedestrian access.
 3. *Side setbacks.* Side setbacks are not required.
 4. *Rear setback.*
 - (i) *Rear setback.* Rear façades on interior lots shall be set back a minimum of 20 feet from the midpoint of the alley or ten feet from the property line where no alley exists. Balconies may extend into the rear setback by ten feet.
 - (ii) *Carports.* Carports may encroach into the required rear setback subject to the following:
 - A. The carport must be designed in keeping with the design of the building.
 - B. The carport must be open on all four sides (except where attached to the principal building, if applicable).
 - C. The carport must be a minimum of 15 feet from the centerline of the alley.
 5. *Adjacent preexisting setbacks.* In the event of adjacent preexisting setbacks, an adjustment may be approved upon recommendation by the reviewer.
 6. *Awnings.* Upon a recommendation by the reviewer and approval by the Community Development Department, awnings may encroach on the sidewalk in its entirety but must avoid the municipal planter areas.

7. *Loading docks and service areas.* Loading docks and service areas shall not be permitted on frontage lines.
8. *Surface parking lots.* Surface parking lots shall not be permitted on a frontage line or within 30 feet of the frontage line. Setbacks for shared parking is zero foot setback from the side and rear property lines.
9. *Principal pedestrian entrance.* All buildings shall have their principal pedestrian entrance on a frontage line.
10. *Lot coverage.* Lot coverage shall be limited only by setback requirements.
11. *Nonconforming buildings due to rear setbacks.* An existing nonconforming building, which does not conform to the required 20-foot rear setback, may maintain the existing building setback when additional stories are added as long as the additional stories meet the required setback. The roof of the nonconforming existing first or second story may be used for a balcony.
12. *Surface water management.* Shared surface water management systems may have a zero-foot setback from the property lines.
13. *Landscape standards for the Old U.S. 41 Redevelopment District.*
 - (i) Due to the unique development standards of the Old U.S. 41 Redevelopment District within the city, landscape and buffering standards must be reviewed and approved according to these standards. In the event of conflicts with other sections of this zoning code, the provisions of this section shall take precedence and shall supersede other sections of this land development code. However, the provisions of this section shall not be construed to take precedence over the state building code.
 - (ii) When a covered walkway along a building frontage or right-of-way is not provided, tall or medium trees or palms are required to establish continuous shade.
 - (iii) Front buffers may be administratively waived to accommodate building locations, courtyards, arcades, or other architectural or design constraints.
 - (iv) For buildings with shared walls or a zero side setback, landscaping is not required for that portion of the property line.
 - (v) Unless specifically prohibited due to building design and location, building perimeter plantings will be required. Property owners or registered agents may apply for administrative relief, plant the trees and/or shrubs in decorative pots, or have landscaping relocated to a different portion of the project site. Trees and shrubs required shall adhere to the species and sizes pursuant to chapter 3.
 - (vi) Projects may receive administrative approval to reduce the width of required buffers and/or relocate required plantings on-site as part of the development order process.
 - (vii) Existing landscaping that does not comply with the provisions of this code must be brought into conformity, to the maximum extent possible, when the building/site is modified or expanded, or the building has been vacant for a period of one year or more and a request for certificate of use for a new local business tax is made.
14. Chain link fences cannot be visible from a public right-of-way.
- d. *Exterior finish material of façades.* The exterior finish material on all façades of a building or project shall be consistent around the project. A building or project may utilize any number of wall materials provided they respect the following guides:
 1. Primary materials include any materials (not including windows, doors, or storefront materials, awnings and such) that face the majority of the building façade. Such materials include but are not necessarily limited to brick, wood or hardboard siding,

- stucco, stone, concrete, and finished concrete block. The primary materials shall not include any materials listed as secondary materials.
2. Secondary materials are those that complement the primary materials but are limited to 20 percent or less of the materials on the façade.
 3. Accent materials are very limited in quantity and are for accent purposes only.
 4. Materials that may constitute secondary or accent materials include, but not limited to:
 - (i) Corrugated metals or corrugated metal panels.
 - (ii) Unpainted or natural concrete block.
 - (iii) Metal standing seam or raised panels.
 - (iv) Mirrored or reflective materials.
 - (v) Plywood siding.
 - (vi) Gratuitous decoration.
 5. Prohibited materials include vinyl or aluminum lap siding or other imitation materials.
 6. Project or building architects may present in lieu submittals to the reviewer for variations from the above for both use of materials and colors.
 7. Exterior walls shall have an architectural feature at least every 20 lineal feet. Walls with an average height of 16 feet above grade shall provide a second tier of architectural features.
- e. *Exterior colors.* Effective March 1, 2013, all development, redevelopment, renovation and restoration projects within the Old U.S. 41 Redevelopment Urban Core must follow the designated color palette as set forth in section 4-887, Exhibit IV, specifically designated as Sherwin Williams Exterior Coastal Colors for Southern Shores and Beaches, or paint from another manufacturer of similar color and quality. In addition to the designated color palette, Owners of property may also consider the exterior pastel colors as also set forth in Exhibit IV in section 4-887. Owners of property within the applicable area shall paint their buildings to conform to the aforesaid color palette in accordance with the following procedures:
1. There are 24 sets (three colors each) in the palette, and ten pastel shades. The painting of building exteriors will use the body, trim and accent from the same set in the approved palette colors. If a property owner selects one of the ten pastel shades for the body of the structure, the owner will comply with the following guidelines:
 - (i) The body of the structure should have a base lighter than any selected trim or accent, unless the trim or accent is painted white.
 - (ii) No more than two additional colors should be selected in a darker pastel or white for trim and accent.
 - (iii) Not all architectural styles are appropriate for pastel colors. Pastel colors may be attractive on Florida (Cracker) Vernacular Architecture, Post-War Modern and Art Deco design. The reviewer may deny the use of the pastel shades if it is incompatible with the existing or planned structure intended to be painted, subject to city council review.
 2. The reviewer is authorized to approve minor "shading" variations in palette colors that may be caused by the use of paint from different manufacturing companies. Any other change in palette colors may be approved by city council on a case-by-case basis.
 3. Buildings in single ownership, including sheds and accessory structures, shall be of uniform façade and trim color, with exception to gazebos.
 4. Upon the completion of the exterior painting of any building, the property owner shall provide community development with a color façade photograph (preferably by e-mail).

5. The city may adopt an incentive plan for property owners to paint the entire exterior of their building by administrative code.
 6. It is not the intent of implementing the color palette to discourage placement of any murals, as approved by the arts in public places board.
- f. *Glass color.* Glass shall be clear or tinted only; reflective glass is prohibited, except when used for an accent per subsection d.4. above.
 - g. *Sliding doors and windows; automatic doors.* Sliding doors and sliding windows are not permitted along frontage lines on first story. Automatic doors may be permitted by the community development upon a recommendation by the reviewer.
 - h. *Rooftop equipment.* No rooftop mounted mechanical equipment shall be visible as viewed from any public right-of-way at ten-foot eye level. All such equipment shall be screened by an appropriate method.
 - i. *Visible roofs.* Buildings with roofs visible from the any public right-of-way shall have symmetrical pitched roofs with slopes no less than 5:12. Porches and first floors and dormers may have shed roofs with pitch no less than 2:12.
 - j. *Mansard roofs.* Cantilevered mansard roofs are not permitted, however, existing structures may maintain nonconforming status when building permit changes do not necessitate roof changes.
 - k. *Roof materials.* Roof materials should be appropriate for the function they are to serve as well as appropriate to the overall expression of the building or project.
 - l. *Façade design.*
 1. *Façades on frontage lines.* The façades on frontage lines at first floor level shall be detailed and glazed as storefronts. The wood or metal armature of such storefronts shall be painted. Storefronts shall be directly accessible from sidewalks. With exception to French Doors, each storefront must have glazed areas, with a minimum of 40 percent and a maximum of 60 percent of its portion of the façade, between three and ten feet from the floor, and shall not conflict with the sign band area. Storefronts shall have the mullion system, doorways and signage uniformly designed and painted or have a factory applied finish.
 2. *Façades not on frontage lines.* The exteriors of buildings not facing frontage lines shall incorporate the same surface materials and similar design elements such as similar proportions, with attractive rear entrances and consideration of pedestrian pass-throughs.
 3. *Façade band.* Glazing is not permitted within the façade band area.
 - m. *Awnings.*
 1. *Generally.* Unless there is a portico at the entrance of a building to protect from rain or sun, façades shall be supplemented by awnings at the street level, which shall be straight sheds, not cubed or curved, with a drip edge no greater than 12 inches. Awnings shall be no less than eight feet high at the lower drip edge. Awnings used in conjunction with a second-story balcony shall not extend beyond the edge of the balcony railing and shall have no minimum height requirement from the finished floor. Awning or portico roof structures may be approved but must meet all of the same standards as a building.
 2. *Nonconforming buildings.* The community development may approve awnings or porticos that do not strictly conform to this division if the reviewer recommends administrative approval and if the following conditions are met:
 - (i) The building is an existing building.
 - (ii) The architectural style of the building does not conform to this division.

- (iii) The building façade is such that an awning which would conform to this division would not be architecturally compatible or complimentary to the building.
 - (iv) The proposed awning is the most appropriate style for the building, is compatible with adjacent buildings, and the awning or portico achieves the requirements of this section as closely as possible and is consistent with the intent of this division.
 - (v) When the community development approves an awning based on the criteria above, that awning style/design will become the standard style/design for all awnings for that particular building.
- n. *Outside dining tables and chairs.* Outside dining tables and chairs located within a public or private sidewalk are permitted where adjacent to and directly abutting a restaurant located in a building and appropriate pedestrian access is maintained. Community development may approve outside dining tables/chairs and their location upon a recommendation from the reviewer. All outside dining tables and chairs shall be temporary and portable and shall be primarily metal, cast concrete, wood or suitable composite material. Plastic chairs and tables are prohibited. The sale or service of on-premises consumption of alcohol with outdoor seating is regulated by state law and by section 4-1023 et seq. of this code.
- o. Outdoor display and sale of merchandise. The outdoor display of merchandise may be permitted subject to the limitations listed below:
1. The outdoor display of merchandise is prohibited unless a permit is obtained in accordance with this section.
 - i. All outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces or other unmaintained or damaged portion of a display shall be repaired or replaced or removed within 30 days upon written notification from the city, unless it is hazardous, which requires immediate removal after verbal notification from code enforcement.
 - ii. All merchandise must be in good condition and appropriate for outdoor display. Appropriate items for display include but are not limited to plants, flowers, outdoor furniture, and bicycles.
 - iii. The display of one five-foot base by six-foot upright single-rail garment rack is permitted.
 - iv. All outdoor business displays shall be neat, orderly and otherwise conducive to creating a quality shopping environment. The display of obscene material as defined in F.S. § 847.001 is prohibited.
 - v. The outdoor business displays shall not threaten public safety and be self-supporting, stable and of sufficient weight or constructed to withstand overturning by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including, but not limited to, utility poles, light poles, and trees.
 - vi. All outdoor display items shall only be displayed during business operating hours and shall be removed and placed inside the commercial establishment during non-business hours. Covering with a tarp is prohibited.
 - vii. Merchandise displayed outdoors shall also be available for sale by the establishment where the merchandise is sold.
 - viii. All merchandise sales transactions shall occur indoors.
 - ix. Outdoor display areas may not be sublet or subleased to a separate business entity, or offer products or services for any other business entity.

- x. Outdoor display of merchandise is temporary and not intended to expand retail space. No additional parking will be required to support outdoor displays of merchandise as long as they are temporary and not included into the design of a structure or building.
 - xi. No additional signage is permitted.
2. Outdoor display area location criteria:
 - i. Displays must be located on private property, immediately adjacent to the commercial business and conforming to all required setbacks or build-to lines; and
 - ii. Displays must not block or impede pedestrian traffic or be placed on the public sidewalk. A minimum width of six feet of sidewalk clearance must remain for pedestrian traffic; and
 - iii. Displays shall not reduce the public sidewalk below minimum widths, or impede parking/loading isle or impede emergency egress; and
 - iv. Except for displays that are on a porch under cover, displays shall not be more than six feet in height, no more than two feet in depth, and no more than 50 percent of the storefront façade length measured in linear feet; and
 - v. No required parking space, parking aisle, loading space or landscaped area shall be used for display purposes.
 3. Permit review process: An applicant must submit the following information on the form provided by the city:
 - i. Application indicating the name, address and telephone number of the applicant and owner of the premises, if not the applicant.
 - ii. Filing fee. All fees, in accordance with the duly adopted fee schedule (see section 4-31), must be paid at the time the application is submitted.
 - iii. A site plan depicting the location of the merchandise in accordance with the outdoor display area criteria.
 - iv. Staff must find that the proposed outdoor sale or display use(s) are compatible with surrounding uses and do not create any adverse effect on any surrounding property.
 - v. Conditions may be imposed as part of the permit as may be found necessary.
 - vi. The permit issued hereunder shall be valid for any period deemed appropriate.
 - vii. The community development director reserves the right to deny the application based on safety, aesthetics, or inadequate space
 4. Revocation or suspension of permit. The city may revoke or suspend outdoor display permits within 30 days after written notice if the conditions of the permit are not met or an applicant has failed to correct any violations of the Code of Ordinances existing at the property where the outdoor display permit has been approved.
 5. Special events organized, sponsored, or co-sponsored by the city are exempt from this section.
 6. All outdoor display areas legally permitted prior to the effective date of this ordinance must come into compliance with this section by June 1, 2016.
- p. *Dumpsters.* Dumpsters shall be screened from off-premises view. Screening materials shall be compatible with the building design. Existing dumpsters that are visible from the right-of-way, adjoining property, or pedestrian walkway must be screened. Wherever possible, dumpsters shall be shared between property owners. If a particular property by its use does not require a dumpster or when it can be demonstrated that a dumpster is not required, then the garbage receptacles or containers must be screened from view.

- q. *Telephone and utility wires.* Any new building or substantial change shall be required to relocate all telephone, electric and other utility wires and conduits underground from the poles of the transmission lines located within the public utility easements to the building or the connection.

* * * * *

CHAPTER 4 – ZONING

ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 5. – ALCOHOLIC BEVERAGES

Sec. 4-1023. - Sale or service for on-premises consumption.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the city as follows:
 - (1) *Administrative approval.* The director of the department of community development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant, the director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the director may approve the second location subject to all other requirements contained in this division.
 - a. Bars, cocktail lounges, or night clubs located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs; provided the standards set forth in subsections (b)(1) and (3) of this section are met;
 - b. Bowling alleys; provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met;
 - c. Clubs and fraternal or membership organizations located in commercial and industrial zoning districts, where permitted; provided the standards set forth in subsections (b)(2)f and (b)(3) of this section are met;
 - d. Cocktail lounges in golf course, tennis clubs or indoor racquetball clubs; provided the standards set forth in subsections (b)(2)d and e and (b)(3) of this section are met;
 - e. Hotels/motels; provided the standards set forth in subsections (b)(2)c and (b)(3) of this section are met;

- f. Restaurants Groups II, III and IV, and restaurants with brew pub license requirements; provided the standards set forth in subsections (b)(2)b and (b)(3) of this section are met; and
- g. Charter, party fishing boat or cruise ship; provided the standards of section (b)(3) are met. The COP approval is specific to the charter, party fishing boat or cruise ship operating from a specific location and does not run with the land nor is it transferrable.

(2) *Special exception.*

- a. A special exception for consumption on the premises is required for:
 - 1. Any establishment not covered by subsection (a)(1) of this section; or
 - 2. Any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages; except a Group II, III or IV restaurant may have outdoor seating approved administratively; provided the outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership.
- b. The burden of proof that the grant of the special exception will not have an adverse affect on surrounding properties lies with the applicant.
- c. A single special exception for consumption on the premises for a shopping center in a conventional zoning district is sufficient to permit consumption on the premises in every restaurant that exists or may be established within the center.

(3) *Planned developments and planned unit developments.*

- a. No administrative approval is necessary where an individual establishment or other facility proposing consumption on the premises is explicitly designated on the master concept plan and is included on the schedule of uses.
- b. If consumption on the premises is shown as a permitted use on the approved schedule of uses for a shopping center, no administrative approval for consumption on the premises is required for restaurants within the center.
- c. Consumption on the premises for other uses within planned developments and planned unit developments require administrative approval or a special exception.

(4) Old U.S. 41 Redevelopment Urban Core. The sale or service of alcoholic beverages for consumption on the premises in the Old U.S. 41 Redevelopment Urban Core is regulated as follows:

a. No administrative approval is necessary for indoor consumption on premises associated with a tavern or microbrewery. A special exception is required for consumption on premises in associated outdoor seating areas for these establishments. These establishments are not subject to the location standards set forth in subsection (b)(2).

b. Administrative approval is required for consumption on premises in indoor and outdoor seating areas associated with Restaurants, Group II-IV. These establishments are not subject to the location standards set forth in subsection (b)(2).

d. All other uses and establishments not explicitly listed above that propose consumption on premises within the Urban Core are subject to applicable approval process as set forth in this section.

(b) *Location; and parking.*

(1) *Prohibited locations.*

- a. Except as may be exempted in subsections (a)(1) or (b)(2) of this section no establishment for the sale or service of alcoholic beverages for consumption on the premises may be located within 500 feet of:
 - 1. A religious facility, school (noncommercial), day care center (child) or park;

2. A dwelling unit under separate ownership, except when approved as part of a planned development; or
 3. Another establishment primarily engaged in the sale of alcoholic beverages for consumption on the premises, excluding those uses listed under subsection (b)(2) of this section. Distance must be measured from any public entrance or exit of the establishment in a straight line to the nearest property line of the religious facility, school (noncommercial), day care center (child), dwelling unit or park, or to the closest public entrance or exit of any other establishment primarily engaged in the sale of alcoholic beverages.
- b. Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a religious facility, school (noncommercial), day care center (child), park or dwelling unit is subsequently established in the proximity of the existing establishment, then the separation requirements will not apply.
- (2) *Exceptions to location standards.* Exceptions to location standards are as follows:
- a. Bowling alleys, provided that:
 1. There are no signs, or other indication visible from the outside of the structure concerned, that beer or wine or other malt and vinous beverages are served;
 2. The bowling alley is in a fully air conditioned building with at least 10,000 square feet of floor space under one roof and where both uses are owned by the same entity;
 3. The building contains at least 12 alleys available for bowling. The facilities for the service of food and beverages must be in an area separate from the alleys. The facility for the service of food and beverages must contain at least 2,000 square feet of usable floor space and must accommodate at least 60 patrons at tables; and
 4. The building is at least 500 feet, measured as provided in this subsection, from the uses described in subsections (b)(1)a.1 and (2) of this section.
 - b. Restaurants Groups II, III and IV; provided:
 1. The restaurant is in full compliance with state requirements;
 2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and
 3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge must be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building.
 - c. Hotels/motels; provided that:
 1. The hotel/motel contains at least 100 guest rooms under the same roof and that nightclubs, cocktail lounges or bars are located within the hotel or motel and under the same roof; and
 2. The exterior of the building must not have storefronts or give the appearance of commercial or mercantile activity visible from the highways.

If the use contains windows visible from the highway, the windows must be of fixed, obscure glass. Access to the nightclub, cabaret, cocktail lounge, or bar must be through the lobby. Additional entrances are not permitted unless the additional entrance or door opens into an enclosed courtyard or patio. The additional entrance may not be visible from the street. A fire door or exit is permitted so long as the door or exit is equipped with panic type hardware and is maintained in a locked position, except in an emergency.
 - d. Golf course clubhouses; provided that:
 1. The golf course consists of at least nine holes, a clubhouse, locker rooms and attendant golf facilities, and comprises in all at least 35 acres of land.

2. Failure of the club to maintain the golf course, clubhouse and golf facilities will automatically terminate the privilege of the cocktail lounge and sale of beer from the refreshment stands.
- e. Tennis clubs and indoor racquetball clubs; provided that the club is chartered or incorporated or owns or leases and maintains a bona fide tennis club or four-wall indoor racquetball club consisting of not less than:
1. Ten regulation-size tennis courts;
 2. Ten regulation-size four-wall indoor racquetball courts;
 3. A combination of tennis courts and four-wall indoor racquetball courts numbering ten; or
 4. Clubhouse facilities, pro shop, locker rooms and attendant tennis or racquetball facilities, all located on an abutting tract of land owned or leased by the club.

There may be no signs or other indications visible from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

- f. Clubs and fraternal or membership organizations provided:
1. The club or organization conforms to all the requirements of F.S. ch. 561 and other applicable state laws; and
 2. There are no signs or other indications visible from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

(3) *Parking.* Restaurants providing alcoholic beverages for consumption on the premises must comply with the parking requirements set forth in section 4-1732(2)l. Any bar or cocktail lounge must provide parking in accordance with section 4-1732(2)e. All other uses must meet the parking requirements of the principal use. Parking for consumption on the premises in the Old U.S. 41 Redevelopment Urban Core is subject to the provisions of LDC § 4-870.

(c) *Procedure for approval.*

(1) *Administrative approval.*

- a. *Application.* An applicant for a consumption on the premises permit must submit the following information on the form provided by the city:
1. The name, address and telephone number of the applicant.
 2. The name, address and telephone number of the owner of the premises, if not the applicant.
 3. A notarized authorization from the property owner to apply for the permit.
 4. Location by STRAP and street address.
 5. Type of state liquor license being requested.
 6. A site plan, drawn to scale, showing:
 - (i) The property in question, including all buildings on the property and adjacent property.
 - (ii) Entrances to and exits from the building to be used by the public.
 - (iii) A parking plan, including entrances and exits.
 - (iv) The floor area of the building and proposed seating capacity. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the lounge must be shown in addition to the restaurant seating area.

7. A city map marked to indicate all property within 500 feet of the building to be used for consumption on the premises.
 8. A notarized affidavit executed by the applicant indicating that no religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building.
- b. *Findings by director.* Prior to permit approval, the director must conclude all applicable standards have been met. In addition, the director must make the following findings of fact:
1. There will be no apparent deleterious effect upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises.
 2. The premises are suitable in regard to their location, site characteristics and intended purpose. Lighting must be shuttered and shielded from surrounding properties.
- (2) *Special exception.*
- a. Applications for special exception must be submitted on forms supplied by the city and must contain the same information required for administrative approval.
 - b. Advertisements and public hearings must be conducted in accordance with the requirements set forth in article II of this chapter.
- (d) *Temporary one-day permit.*
- (1) *Intent; applicability.*
- a. It is the intent of this subsection to require nonprofit and for-profit organizations and establishments to obtain a one-day temporary alcoholic beverage permit for the sale of alcoholic beverages at the specific location where an event is held. This subsection pertains to, but is not necessarily limited to, the following uses:
 1. Grand openings or open houses at residential, commercial or industrial developments;
 2. Special outdoor holiday or celebration events at bars and restaurants;
 3. Weddings and other special occasions at clubhouses;
 4. Political rallies or events;
 5. Block parties; and
 6. Carnivals.
 - b. Only 12 temporary alcoholic beverage permits may be issued per year to a specific location. If more than 12 permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special exception. If the event for which the temporary alcoholic beverage permit is sought continues for longer than one day, the applicant may petition the director for an extended permit. A temporary alcoholic beverage permit may not be issued for more than three days.
- (2) *Procedure for approval.*
- a. Any owner, lessee or tenant seeking approval for consumption on the premises for a temporary alcoholic beverage permit, must submit a written request to the department of community development. The written request must include:
 1. The name and address of the applicant;
 2. A general description of the exact site where alcoholic beverages are to be sold and consumed;
 3. The type of alcoholic beverages to be sold and consumed; and
 4. A fee in accordance with the adopted fee schedule.

- b. The director will render a final decision within ten working days. The decision will be in the form of approval, approval with conditions or denial. The director may forward the request to other appropriate agencies for comment.
 - c. The city council will review all requests for temporary alcoholic beverage permits where an event will run longer than three days. Under no circumstances will a temporary alcoholic beverage permit be issued for more than ten days.
- (e) *Expiration of approval.* After the following time periods, the administrative or special exception approval of a location for the sale and consumption of alcoholic beverages on the premises granted in accordance with this section will expire and become null and void:
- (1) In the case of an existing structure, the approval will expire six months from the date of approval, unless, within that period of time, operation of the alcoholic beverage establishment has commenced. For purposes of this subsection, the term "operation" is defined as the sale of alcoholic beverages in the normal course of business.
 - (2) In the case of a new structure, the approval will expire one year from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. The director may grant one extension of up to six months, if construction is substantially complete.
- (f) *Transfer of permit.* Alcoholic beverage permits, excluding permits for bottle clubs and as noted in section 4-1023(a)(1)i, issued by virtue of this section is a privilege running with the land. Sale of the real property will automatically vest the purchaser with all rights and obligations originally granted to or imposed on the applicant. The privilege may not be separated from the fee simple interest in the realty.
- (g) *Expansion of area designated for permit.* The area designated for an alcoholic beverage permit may not be expanded without filing a new application for an alcoholic beverage permit in accordance with the requirements contained in this chapter. The new application must cover both the existing designated area as well as the proposed expanded area. All areas approved must be under the same alcoholic beverage permit and subject to uniform rules and regulations.
- (h) *Nonconforming establishments.*
- (1) *Expansion.* A legally existing establishment engaged in the sale or service of alcoholic beverages made nonconforming by reason of the regulations contained in this section may not be expanded without a special exception. The term "expansion," as used in this subsection, includes the enlargement of space for the use and uses incidental thereto, the expansion of a beer and wine bar to include intoxicating liquor, as that term is defined by the Florida Statutes, and the expansion of a bar use to a nightclub use. Nothing in this subsection may be construed as an attempt to modify any prohibition or diminish any requirement of state law.
 - (2) *Abandonment.* Any uses, created and established in a legal manner, which thereafter become nonconforming, may continue until there is an abandonment of the permitted location for a continuous six-month period. For purposes of this subsection, the term "abandonment" means failure to use the location for consumption on the premises purposes as authorized by the special exception, administrative approval, or other approval. Once a nonconforming use is abandoned, it cannot be reestablished, unless it conforms to the requirements of this chapter, and new permits are issued.
- (i) *Revocation of permit or approval.*
- (1) City council has the authority to revoke an alcoholic beverage special exception, administrative approval, or other approval upon any of the following grounds:
 - a. A determination that an application for special exception or administrative approval contains knowingly false or misleading information.
 - b. Violation by the permit holder of any provision of this chapter, or violation of any state statute which results in the revocation of the permit holder's state alcoholic beverage license by the state alcoholic beverage license board or any successor regulatory authority.

- c. Repeated violation of any city ordinance at the location within the 12-month period preceding the revocation hearing.
 - d. Failure to renew a state liquor license, or written declaration of abandonment by the tenant and owner of the premises if under lease, or by the owner himself if not under lease.
 - e. Abandonment of the premises. An establishment which continually maintains (renews) its state liquor license, even though it has suspended active business with the public, will not be deemed to have been abandoned for purposes of this subsection.
 - f. Violation by the permit holder of any condition imposed upon the issuance of the special exception or administrative approval.
 - g. Violation of any of the minimum standards of the special exception.
- (2) Prior to revoking an administrative approval, special exception, or other approval for alcoholic beverages, the city council must conduct a public hearing at which the permit holder may appear and present evidence and testimony concerning the proposed revocation. At the hearing, the city council may revoke the permit if a violation described in this subsection is established by a preponderance of the evidence. The permit holder must be notified of the grounds upon which revocation is sought prior to any hearing, and must be given notice of the time and place of the hearing in the same manner as set forth in article II of this chapter.
 - (3) When an alcoholic beverage permit is revoked in accordance with the terms of this subsection, the city may not consider a petition requesting an alcoholic beverage permit on the property for a period of 12 months from the date of final action on the revocation.
 - (4) Upon written demand of the city council, any owner or operator of an establishment with a COP license must make, under oath, a statement itemizing the percentage of his gross receipts from the sale of alcoholic beverages. Failure to comply with the demand within 60 days of the demand date is grounds for revocation of the special exception, administrative approval, or other approval.
- (j) *Appeals.* All appeals of decisions by the director must be in accordance with the procedures set forth in article II or article III of this chapter for appeals of administrative decisions.
 - (k) *Bottle clubs.*
 - (1) All bottle clubs operating under a valid special permit are deemed nonconforming on the effective date of the ordinance from which this section is derived.
 - (2) All nonconforming bottle clubs must discontinue their use no later than 12 months from the effective date of the ordinance from which this section is derived.
 - (3) No new bottle clubs will be allowed in any zoning district. This subsection supersedes and repeals any existing city regulations in conflict herewith.

SECTION TWO: CONFLICTS

Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statutes, the most restrictive requirements shall apply.

SECTION THREE: SEVERABILITY

If any part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reasons, such part, section, subsection, or other portion of the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City declares that no invalid or prescribed provision or

application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision application.

SECTION FOUR: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS


It is the intention of the City Council for the City of Bonita Springs that the provisions of this Ordinance shall become and be made part of the Bonita Springs Land Development Code; and that sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not effect the intent may be authorized by the City Manager, or the City Manager's designee, without need or public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION FIVE: EFFECTIVE DATE


The effective date of this ordinance shall be thirty (30) days from its adoption date.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of December, 2016.

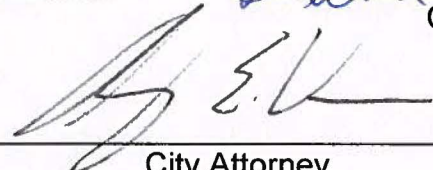
AUTHENTICATION:



Mayor



City Clerk

APPROVED AS TO FORM: 

City Attorney

Vote:

DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye	Slachta	Aye
O'Flinn	Aye		

Date filed with City Clerk: 12/9/16