

P.C. 06/14/07

ORDINANCE 07-61

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708.3 REGARDING SALE OF ALCOHOLIC BEVERAGES AT LIVE PERFORMANCE THEATER; PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

P.C. 06/14/07

B.O.C.C. 06/19/07

RECOMMENDED MOTION

Based upon the recommendations of staff, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan, I move to recommend ADOPTION of Manatee County Ordinance 07-61, amending the Manatee County Land Development Code (Ordinance 90-01, as amended).

Background/Discussion

- The Land Development Code provides that Consumption on Premises is permitted at the following locations provided they are consistent with state statute:
 - Restaurants having at least 150 seats and 2,500 square feet;
 - Hotels and Motels
 - Country Clubs, and
 - Private, civic and fraternal clubs as licensed by the State which are located in non-residential zoning districts.
- A request has recently been made to allow alcoholic beverage sales at a live performance theatre which is operated by a non-profit entity. Currently, this would require a Special Permit.
- Staff has reviewed State Statute and became aware that there is a specific provision in statute addressing this circumstance. Section 565.02 (10) provides:
 - A state-chartered legal entity not for profit organized principally for the purpose of operating a theater with live performances and not fewer than 100 seats may obtain a license upon the payment of an annual license tax of \$400. Such license shall permit sales for consumption on the premises only to patrons during any regularly scheduled live theater performance.
- Staff recommends adding the not-for-profit theatres to the list of permitted facilities. Theatres are medium intensity recreation uses which are not permitted in residential zoning districts. The sale of alcohol could be considered accessory to the major activity of the theatre. The impacts of the theatre will be evaluated during site plan review. It is not anticipated that there will be any additional impacts from the sale of alcohol at these facilities.
- The proposed changes to 708.3.1 of the Land Development Code are consistent with the Comprehensive Plan and other provisions of the Land Development Code.
- The specific Changes are as follows:

708.3. Consumption on Premises.

708.3.1. *Permitted Facilities.* Consumption on premises shall be permitted at the following facilities that meet the requirements set forth in Sections

561.20(2)(a), ~~or 561.20(7)~~, or 565.02(10) Florida Statutes (1980), as amended:

1. Restaurants having at least one hundred fifty (150) seats and two thousand five hundred (2,500) square feet of service area;
 2. Hotels and motels;
 3. Country Clubs; ~~or~~
 4. Private, civic and fraternal clubs as licensed by the State, which are located in non-residential zoning districts-1
 5. Live Performance theaters operated by a state-chartered legal entity not-for-profit organized for the purpose of operating a theater with live performances and not fewer than 100 seats.
- Staff recommends approval.

ORDINANCE 07-61

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708.3 RELATING TO THE SALE OF ALCOHOLIC BEVERAGES AT LIVE PERFORMANCE THEATER; AMENDING OTHER PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County, Florida, is authorized under Chapters 125 and 163, Florida Statutes, to enact zoning and other land development regulations to protect the health, safety, and welfare of the citizens of Manatee County, Florida; and

WHEREAS, Sections 163.3201, 163.3202, 163.3204, 163.3211, and 163.3213, Florida Statutes, empower and require the Board of County Commissioners of Manatee County, Florida, to implement adopted comprehensive plans by the adoption of appropriate land development regulations and specify the scope, content, and administrative review procedures for said regulations; and

WHEREAS, Section 163.3202, Florida Statutes, further provides that certain specified and mandated regulations are to be combined and compiled into a single land development code for the County; and

WHEREAS, the Manatee County Planning Commission has been established pursuant to Manatee County Ordinance 90-01, as amended, and in accordance with Sections 302 and 503 of said ordinance and Section 163.3194(2), Florida Statutes, said Commission is required to review proposed amendments to the Manatee County Land Development Code and to make its recommendations to the Board of County Commissioners after holding a public hearing on the matter; and

WHEREAS, the Manatee County Planning Commission has reviewed an amendment to the above cited Code to more adequately address and prepare for Manatee County's future development and growth and to implement the Manatee County Comprehensive Plan; and

WHEREAS, the Manatee County Planning Commission held a public hearing on June 14, 2007 on the above cited amendments with due public notice having been provided, and having reviewed and considered all comments received during said public hearing, including the staff comments and reports, recommended said amended version of the Manatee County Land Development Code as being consistent with the adopted Manatee County Comprehensive Plan and meeting the requirements of 163.3202(2) and 163.3213(1) and (2), Florida Statutes; and

WHEREAS, pursuant to Chapters 163 and 125, Florida Statutes, and the provisions of Sections 502 and 503 of the Manatee County Land Development Code, on June 19, 2007 the Board of County Commissioners of Manatee County held public hearings, with due public notice having been provided, to consider proposed amendments to the above referenced Land Development Code; and

WHEREAS, the Board of County Commissioners further considered all oral and written comments, including staff reports and studies received, during said public hearings along with the specific recommendations of the Planning Commission; and

WHEREAS, in exercise of said authority, the Board of County Commissioners of Manatee County, Florida, has determined it necessary and desirable to amend and revise in part the Manatee County Land Development Code in order to implement the Manatee County Comprehensive Plan and meet its responsibilities under Florida Statutes to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within Manatee County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

Section 1. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Amendment of Land Development Code. The Manatee County Land Development Code (Manatee County Ordinance No. 90-01, as amended) (the "Land Development Code") is hereby amended as follows:

(Underlined language to be added/struck-through language to be deleted)

A. Section 708.3, amend as follows:

708.3. Consumption on Premises.

708.3.1. Permitted Facilities. Consumption on premises shall be permitted at the following facilities that meet the requirements set forth in Sections 561.20(2)(a), ~~or 561.20(7),~~ or 565.02(10) Florida Statutes (1980), as amended:

1. Restaurants having at least one hundred fifty (150) seats and two

thousand five hundred (2,500) square feet of service area;

- 2. Hotels and motels;
- 3. Country Clubs; or
- 4. Private, civic and fraternal clubs as licensed by the State, which are located in non-residential zoning districts;
- 5. Live performance theaters operated by a state-chartered legal entity not-for-profit organized for the purpose of operating a theater with live performances and not fewer than 100 seats.

Section 3. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the above amendments into the Land Development Code.

Section 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 19th day of June, 2007.

**MANATEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS**

By: _____
Chairman

**ATTEST: R.B. SHORE
Clerk of the Circuit Court**

By: _____
Deputy Clerk

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Itu #5

ORDINANCE 07-61

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708.3 RELATING TO THE SALE OF ALCOHOLIC BEVERAGES AT LIVE PERFORMANCE THEATER; AMENDING OTHER PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

Section 1. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of and exercise the authority set out in the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners (the "Board") relies upon the following findings in the adoption of this ordinance:

- A. Section 708.3.1 of the Manatee County Land Development Code (the "Code") sets forth land development regulations regarding the sale and consumption on premises of alcoholic beverages.
- B. It is in the interest of the public health, safety, and welfare to adopt the amendment to Section 708.3.1 of the Code as set forth in this Ordinance to better implement the Manatee County Comprehensive Plan.
- C. At a duly noticed public hearing held on June 14, 2007, the Manatee County Planning Commission reviewed the amendment set forth in this Ordinance, found the amendment to be consistent with the Comprehensive Plan, and recommended the adoption of this amendment by the Board.

Section 3. Amendment of the Land Development Code. Section 708.3 of the Code is hereby amended to read as follows (underlined language to be added/struck-through language to be deleted):

708.3.1. *Permitted Facilities.* Consumption on premises shall be permitted at the following facilities ~~that meet the requirements set forth in Sections 561.20(2)(a) or 561.20(7), Florida Statutes (1980), as amended:~~

1. Restaurants ~~having at least one hundred fifty (150) seats and two~~

~~thousand five hundred (2,500) square feet of service area meeting the requirements of Section 561.20(2)(a)4., Florida Statutes, as may be amended;~~

2. Hotels and motels meeting the requirements of Section 561.20(2)(a)1., Florida Statutes, as may be amended;
3. Country Clubs meeting the requirements of Section 561.20(7)(b), Florida Statutes, as may be amended; or
4. Private, civic and fraternal clubs as licensed by the State, which are located in non-residential zoning districts and meeting the requirements of Sections 561.20(7)(a) and 565.02(4), Florida Statutes, as may be amended; or-
5. Performing arts centers meeting the requirements of Section 561.20(2)(j), Florida Statutes, as may be amended, and theaters with live performances meeting the requirements of Section 565.02(10), Florida Statutes, as may be amended.

Section 3. Codification. The publisher of the County's Land Development Code, the Municipal Code Corporation, is directed to incorporate the above amendments into the Land Development Code.

Section 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

[SIGNATURE PAGE FOLLOWS]

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 19th day of June, 2007.

**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By: _____
Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

BRADENTON HERALD

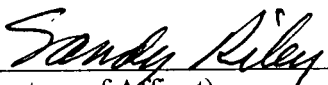
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Bradenton, FL 34205-8894
941/748-0411 ext. 7065

Bradenton Herald
Published Daily
Bradenton, Manatee County, Florida

STATE OF FLORIDA
COUNTY OF MANATEE;

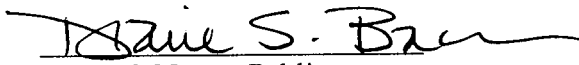
Before the undersigned authority personally appeared Sandy Riley, who on oath says that she is a Legal Advertising Representative of the Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **NOTICE OF LAND DEVELOPMENT** in the Court, was published in said newspaper in the issues of, **6/2,'07**

Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


(Signature of Affiant)

Sworn to and subscribed before me this
6th Day of June, 2007

DIANE S. BACRO
Notary Public
State of Florida
My comm. exp. 08-15-2007
Comm. No. DD 206531


SEAL & Notary Public
Personally Known OR Produced Identification _____
Type of Identification Produced _____

NOTICE OF LAND DEVELOPMENT CODE CHANGES IN UNINCORPORATED MANATEE COUNTY

The Manatee County Planning Commission will hold a public hearing to consider an amendment to certain provisions of the Manatee County Land Development Code (Ordinance 90-01, as amended) and make a recommendation to the Board of County Commissioners as to the consistency of the proposed Ordinance No. 07-61 with the Comprehensive Plan and as to whether the proposed ordinance should be adopted, adopted with modifications, or denied.

Date: Thursday, June 14, 2007
Time: 9:00 AM or soon thereafter
Place: Manatee County Government Administrative Center
1112 Manatee Avenue West,
1st Floor Chambers

ORDINANCE 07-61

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 708 REGARDING SALE OF ALCOHOLIC BEVERAGES AT LIVE PERFORMANCE THEATER; PROVISIONS AS REQUIRED FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

The public is invited to speak at this hearing, subject to proper rules of conduct. The hearing may be continued from time to time to a date and time certain. The public may also provide written comments for the Planning Commission to consider.

Interested parties may examine the proposed Ordinance and related documents and may obtain assistance regarding these matters from the Manatee County Planning Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, Florida; telephone number (941) 749-3070; e-mail to: planning.agenda@co.manatee.fl.us.

Rules of procedure for this public hearing are in effect pursuant to Resolution 05-239(PC). A copy of this Resolution is available for review or purchase from the Planning Department (see address below).

Please send comments to: Manatee County Planning Department
Attn: Agenda Coordinator
1112 Manatee Ave. West Suite 427
Bradenton, FL 34205

All written comments will be entered into the record.

For More Information: Copies of the proposed amendment will be available for review and copying at cost approximately ten (10) days prior to the public hearing. Information may also be obtained by calling 749-3070 x 6878, between 8:00 AM - 5:00 PM.

Americans With Disabilities: The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Kaycee Ellis at 742-5800; TDD ONLY 742-5802 and wait 60 seconds, FAX 745-3790.

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY PLANNING COMMISSION
~~Manatee County~~ Planning Department
Manatee County, Florida

06/02/07

F33998

SARASOTA HERALD-TRIBUNE
PUBLISHED DAILY
SARASOTA, SARASOTA COUNTY, FLORIDA

MANATEE COUNTY PLANNING
ATTN: BOBBI ROY
1112 MANATEE AVE W 4TH FL
BRADENTON, FL 34205

STATE OF FLORIDA
COUNTY OF MANATEE

BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED SHARI BRICKLEY, WHO ON OATH SAYS SHE IS THE CLASSIFIED ADVERTISING MANAGER OF THE SARASOTA HERALD-TRIBUNE, A DAILY NEWSPAPER PUBLISHED AT SARASOTA, IN SARASOTA COUNTY FLORIDA; AND CIRCULATED IN MANATEE COUNTY DAILY; THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A NOTICE IN THE MATTER OF:

NOTICE OF LAND DEVELOPMENT
ORDINANCE 07-25

IN THE COURT WAS PUBLISHED IN MANATEE EDITION
OF SAID NEWSPAPER IN THE ISSUES OF:

JUNE 2, 2007

AFFIANT FURTHER SAYS THAT THE SAID SARASOTA HERALD-TRIBUNE IS A NEWSPAPER PUBLISHED AT SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS THERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID SARASOTA COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MAIL MATTER AT THE POST OFFICE IN BRADENTON, IN SAID MANATEE COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT SHE HAS NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORATION ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN THE SAID NEWSPAPER.

SIGNED _____

Shari Brickley

SWORN TO AND SUBSCRIBED BEFORE ME THIS 2ND DAY OF JUNE A.D., 2007 BY SHARI BRICKLEY WHO IS PERSONALLY KNOWN TO ME.

(SEAL) _____

NOTARY PUBLIC
STATE OF FLORIDA
Mariann Gusbar
My Commission DD355235
Expires November 6, 2008

Mariann Gusbar

NOTARY PUBLIC

**NOTICE OF LAND
DEVELOPMENT
CODE CHANGES
IN UNINCORPORATED**

MANATEE COUNTY

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MANATEE COUNTY PLANNING COMMISSION
Manatee County Planning Department
Manatee County, Florida