

Meeting Date: April 28, 2015

Agenda Item

28

Memorandum No. #15-204

REQUESTED COMMISSION ACTION:

Consent

X

Ordinance

Resolution

Consideration/  
Discussion

Presentation

SHORT TITLE

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 155 "ZONING CODE", BY AMENDING SECTION 155.4218, "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO REVISE DEFINITION OF AND STANDARDS FOR BAR AND LOUNGE; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO REVISE SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS AND PLACE IN A TABLE FORM; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

At the January 13, 2015 City Commission Hearing, Staff was directed to research inconsistencies between the State's and City's licensure of restaurants with accessory bars (4COP SRX license). At the February 10, 2015 City Commission Hearing, Staff presented the results of the research and recommended the city's standards for restaurant size and number of seats be reduced to be consistent with the state's recently reduced thresholds. The Commission directed staff to prepare text amendments. The resulting text amendments revise the standards related to restaurants with accessory bars. Further, in an effort to improve the user-friendliness of the code, the text amendments also reformat the list of uses exempt from separation standards from a list into a table. The text amendments were recommended at the March 25, 2015 Planning and Zoning Board meeting.

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman *KBF* Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	03/11/2015	Approval	Memo #15-070 <i>[Signature]</i>
City Attorney	04/07/2015	Approval	Memo #2015-828 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #15-020 (04/02/2015)
X City Manager			<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration	
1st Reading	1st Reading	Results:	Results:
2nd Reading			



**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4218, "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO REVISE DEFINITION OF AND STANDARDS FOR BAR AND LOUNGE; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO REVISE SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS AND PLACE IN TABLE FORM; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Section 155.4218., "Commercial: Eating and Drinking Establishments," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**§ 155.4218. COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS**

**A. BAR AND LOUNGE**

**1. Districts Where Permitted**

...

**2. Definition**

A bar or lounge is an establishment having as its principal or predominant use the serving of ~~beer, wine, or liquor~~ alcoholic beverages for consumption on the premises, ~~and which sets a minimum age requirement for entrance, consistent with state law.~~ ~~The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food.~~ This use includes bottle clubs, as defined in Chapter 561 of the Florida Statutes, in which patrons consume alcoholic beverages they bring onto the premises.

**3. Standards**

A bar or lounge may only be considered an accessory use to a restaurant provided it is operated by the same management, and the restaurant has indoor dining accommodations for service of 200 150 or more patrons at tables occupying more than 3,000-2,500 square feet of customer service area, and the sale of alcoholic beverages is strictly incidental to the serving of food deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.

...

**SECTION 2.** That Section 155.4501., "Separation Requirements for Alcoholic Beverage Establishments," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**155.4501. SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS**

**A. GENERAL**

Except as otherwise provided in ~~subsection B~~ Table 155.4501.B below, any alcoholic beverage establishment shall be separated from certain existing uses in accordance with Table 155.4501.A, Minimum Separation from Certain Existing Uses.

**TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES**

**TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES <sup>1</sup>**

EXISTING USE	MINIMUM SEPARATION <sup>2</sup>
Any other use involving the sale of alcoholic beverages other than those uses listed in Section 155.4501.B	1,000 feet (Measurement Type 1)
Sexually oriented business	
Child care facility	500 feet (Measurement Type 2) and 300 feet (Measurement Type 3)
School	
Place of worship	

**NOTES:**

1. Measurement Type 1: Separation shall be measured from main entrance to main entrance of the establishments by airline route.
2. Measurement Type 2: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.
3. Measurement Type 3: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measure by airline route.
4. All separations shall be measured from establishments located within or outside of the City limits.
5. Compliance with these separation standards shall not be affected by the subsequent rezoning of the site of the alcoholic beverage establishment to AOD, conveyance of city-owned property, or the establishment of one of the uses from which separation is required on a property closer than the required separation distance. In such case, the alcoholic beverage establishment shall be construed as continuing to comply with the separation standards.

**B. EXCEPTIONS**

The Table 155.4501.B lists uses that are exempt from the separation requirements in subsection A above shall not apply to the following alcoholic beverage establishments: Table 155.4501.A.

- ~~1. An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises;~~
- ~~2. A bar or lounge, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory~~

~~outdoor seating) located within the Atlantic Boulevard Overlay district (AOD);~~

- ~~3. A bar or lounge operated as an accessory use to a restaurant whose dining area(s) accommodate 200 or more seated customers and occupy more than 3,000 square feet of floor area, provided, however, that this exemption shall apply in respect to required separation from child care facilities, schools, and places of worship only if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence other than a lounge sign indicating dancing and entertainment;~~
- ~~4. A bar or lounge operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence other than a lounge sign indicating dancing and entertainment;~~
- ~~5. An enclosed restaurant that sells only beer and/or wine provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no externally visible display window or sign indicating the sale of alcoholic beverages;~~
- ~~6. A lodge or club that limits on-premise consumption of alcoholic beverages to only lodge or club members provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no externally visible display window or sign indicating the sale of alcoholic beverages;~~
- ~~7. A bowling alley that contains ten or more bowling lanes within an enclosed building;~~
- ~~8. A motion picture theater with more than 100 seats;~~
- ~~9. A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area; or~~
- ~~10. A use located on property owned by the city provided, however, that this exemption applies only to required separation from a child care facility, school, or place of worship.~~

**TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES**

<u>Use and Criteria</u>	<u>Required Separation</u>	
	<u>Any other use involving the sales of alcoholic beverages; and Sexually oriented business</u>	<u>Child Care facility; School; and Place of Worship</u>
<u>An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises.</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A bowling alley that contains more than nine bowling lanes.</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A motion picture theater that contains more than 100 seats.</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area.</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards; it is operated by the same management, and the restaurant has indoor dining accommodations for service of 150 or more patrons at tables occupying more than 2,500 square feet of customer service area, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.</u>	<u>Exempt</u>	<u>Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence</u>
<u>A bar or lounge which is operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel.</u>	<u>Exempt</u>	<u>Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence</u>
<u>An enclosed restaurant which sells only beer and/or wine.</u>	<u>Exempt</u>	<u>Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages</u>
<u>A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members.</u>	<u>Exempt</u>	<u>Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages</u>
<u>A use located on property owned by the city.</u>	<u>Not Exempt</u>	<u>Exempt</u>
<u>Within the Atlantic Boulevard Overlay District (AOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).</u>	<u>Exempt</u>	<u>Exempt</u>

**SECTION 3.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

GBL/jrm  
4/7/15  
L:ord/ch155/2015-294



**City Attorney's Communication #2015-828**  
April 7, 2015

**TO:** Karen Friedman, AICP, Planner  
**FROM:** Gordon B. Linn, City Attorney  
**RE:** Ordinance Amending Section 155, "Zoning Code"

As requested in your memorandum of April 2, 2015, Department of Development Services Memorandum No. 15-176, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

**AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4218, "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO REVISE DEFINITION OF AND STANDARDS FOR BAR AND LOUNGE; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO REVISE SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS AND PLACE IN TABLE FORM; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please carefully review the ordinance to ensure that it meets with your requirements.

  
GORDON B. LINN

/jrm  
l:cor/dev-srv/2015-828

Attachment

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY  
MEMORANDUM #15-020**

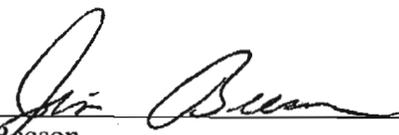
**DATE:** April 2, 2015  
**TO:** City Commission  
**FROM:** Planning and Zoning Board/ Local Planning Agency  
**SUBJECT:** Proposed Text Amendments to Zoning Code  
Article 4, Restaurants with Accessory Bars

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At the meeting of the Planning and Zoning Board/ Local Planning Agency held on March 25, 2015, the Board considered proposed text amendments to the Zoning Code regarding Restaurants with Accessory Bars as set forth in the Department of Development Services Administrative Report 15-170.

§155.4218.A in order to simplify the definition of bar or lounge and to revise the standards for bars considered an accessory use to match those now used by the state for the 4COP SRX license. The Board is recommending text amendments to §155.4501.A which will correct spelling errors in the existing table and text amendments to §155.4501.B which will make the list of exceptions easier to read.

With a unanimous vote for the approval of the amendment, it is the recommendation of the Board that the text amendments be approved.

  
\_\_\_\_\_  
Jim Beeson  
Chairman  
Planning and Zoning Board/ Local Planning Agency



# MEMORANDUM

## Development Services

ADMINISTRATIVE MEMORANDUM NO. 15-070

DATE: March 11, 2015

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services *RB*

FROM: Karen Friedman, AICP, Principal Planner *KBF*

RE: Text Amendments to Zoning Code  
Article 4, Restaurants with Accessory Bars

Staff is recommending text amendments to the Zoning Code regarding restaurants with accessory bars. An explanation of the text amendments is below:

- At the January 13, 2015 City Commission Hearing, staff was directed to research inconsistencies between the State's and City's licensure of restaurants with accessory bars.
- At the February 10, 2015 City Commission Hearing, Staff presented the results of the research, which are contained in administrative memo #15-048 *(copy attached)*. Staff recommended the city's standards for restaurant size and number of seats be reduced in order to be consistent with the state's reduced thresholds for a 4COP SRX license.
- At the February 10, 2015 City Commission Hearing, per Staff's recommendation, the Commission directed staff to prepare text amendments to the city's standards for restaurant with accessory bars. *(copy of minutes attached)*.

### §155.4218.A Bar or Lounge

- The text amendments simplify the definition of bar or lounge
- The text amendments revise the standards for bars considered an accessory use to match those now used by the state for the 4COP SRX license.

### §155.4501.A Minimum Separation of Uses....

- The existing table has several spelling errors. The text amendments simply propose to correct the spelling errors.

### §155.4501.B Exceptions

- In order to make the list of exceptions easier to read, the existing list of uses not required to comply with some or all of the separation requirements has been converted into a table.
- The standards for bars considered an accessory use have been revised to match those now used by the state for the 4COP SRX license.
- No other substantive changes are proposed.

### Staff's Request

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

Meeting Date: February 10, 2015

Agenda Item

27

Memorandum No. #15-050

REQUESTED COMMISSION ACTION:

Consent	Ordinance	Resolution	X	Consideration/ Discussion	Presentation
_____	_____	_____	_____	_____	_____

**SHORT TITLE**     **A discussion item about the separation requirements for liquor stores; the state and city definitions of restaurants with accessory bars; and the lack of separation requirements for restaurants with accessory bars in the AOD and DPOD Districts.**

**Summary of Purpose and Why:**

During the Reports portions of both the December 9, 2014 and the January 13, 2015 City Commission hearings, the Staff was directed to report back regarding alcoholic beverage establishments. In particular Staff was directed to report as to the distance requirements of liquor stores, the differences between the state and city definitions of restaurant with accessory bars, and the lack of distance requirements of restaurants with accessory bars in the AOD and DPOD Districts. Memo #15-049 (copy attached) includes staff's analysis and request for direction regarding Liquor Stores. Specifically Staff is seeking direction as to undertaking a study to determine if additional distance requirements are needed. Memo #15-048 (copy attached) includes staff's analysis and recommendation regarding restaurants with accessory bars. Staff is recommending the city's definition be revised to be consistent with the state's recently changed definition. Staff is not recommending any revisions to the distance requirements for restaurants with accessory bars.

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman *KBF* Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	01/22/2015		Memo #15-049 <i>[Signature]</i>
Dev. Services	01/23/2015		Memo #15-048 <i>[Signature]</i>
X City Manager			<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration	
1 <sup>st</sup> Reading	1 <sup>st</sup> Reading	Results:	Results:
_____	_____	_____	_____
2 <sup>nd</sup> Reading			
_____	_____	_____	_____
_____	_____	_____	_____



# MEMORANDUM

## Development Services

**ADMINISTRATIVE MEMORANDUM NO. 15-048**

**DATE:** January 23, 2015

**TO:** Robin M. Bird, Development Services Director

**FROM:** Karen Friedman, AICP, Planner **KBF**

**RE:** Restaurants with Accessory Bars - locations and distance requirements

At the January 13, 2015 City Commission Hearing, the Commission directed staff to research inconsistencies between the State's and City's licensure of restaurants with accessory bars. Further staff was directed to report back as to different distance separation standards for restaurants with accessory bars within the City's two redevelopment Zoning Districts (AOD and DPOD) versus the remainder of the city.

This memo contains Staff's analysis and recommendation.

### ANALYSIS

#### State Regulations: "4COP SRX" Definition and License

The Florida Department of Business and Professional Regulations, Division of Alcoholic Beverages and Tobacco Bureau of Licensing, issues licenses for the sale of alcoholic beverages. Though the licenses are issued by the state, license standards can vary by county (or the city in some locations).

Prior to September 2014, Broward County's requirement for the Special License / Restaurant (4COP SRX / "Beer, Wine and Spirits (Package and Consumption)") was for restaurants with at least 4,000 square feet of service area and equipped to serve 200 persons full course meals at tables one at a time, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.

However in September 2014 the standards for a 4COP SRX in Broward County were revised as follows: Restaurants with at least 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables one at a time. The 51% non-alcoholic sales requirement was not revised. These standards are consistent with Florida State Statute §561.20(2)(a)(1) (copy attached).

#### Pompano Beach Regulations: "4COP SRX" Definition and License

The Zoning Code regulates the definition and location of Restaurants with Accessory Bars via §155.4218.A.3 (Bar or Lounge) and §155.4501 (Alcoholic Beverage Establishments).

- §155.4218.A.3 states that a bar or lounge may be considered an accessory use to a restaurant provided it is operated by the same management, and the restaurant has dining accommodations for service of 200 or more patrons at tables occupying more than 3,000 square feet of customer service area, and the sale of alcoholic beverages is strictly incidental to the serving of food.
- §155.4501.B lists uses that are exempt from the required separation standards for alcoholic beverage establishment. §155.4501.B.3 exempts a bar or lounge operated as an accessory use



# MEMORANDUM

## Development Services

to a restaurant whose dining area(s) accommodate 200 or more seated customers and occupy more than 3,000 square feet of floor area.

Therefore prior to September 2014, the City's definition of Restaurant with Accessory Bar and the state's licensure requirements for a 4COP SRX license in Broward County were almost the same. The city only required 3,000 sq ft of customer service area, where as the 4COP SRX license required 4,000 sq ft of service area. However both standards required 200 seats.

### **Pompano Beach Regulations: Separation of Alcoholic Beverage Establishments**

Zoning Code §155.4501 requires alcoholic beverage establishments to be separated from certain existing uses, including other Alcoholic Beverage Establishments, Sexually Oriented Businesses, Child Care Facility, Schools, and Places of Worship. Certain uses, however, are exempt from the required separation standards.

- *Specifically within the AOD*, the following uses are exempt: Bar or lounge, Restaurant, or Specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating) (per §155.4501.B.3)
- *Specifically within the DPOD*, and only if directly abutting MLK Boulevard, Dixie Highway, or Atlantic Boulevard, or located within the Historic Core Area, the following uses are exempt: Bar or lounge, Brewpub, Restaurant, Specialty eating establishment, Hotel, and Community Center Community Center, Library, and Civic Centers owned or operated by the City or CRA (per §155.3708.H.4.g)
- *Citywide* there are several exempt uses. The full list of exemptions is attached, and includes restaurants with accessory bars (3,000 sq ft and 200 sets).

The 4COP SRX license's revised requirements, and the resulting discrepancy between the state and city standards for minimum service area size and number of seats, could result in an establishment that is eligible for the 4COP SRX license, but not eligible for the citywide exemption for restaurants with accessory bar.

As to the greater exemptions permitted in the AOD and DPOD, the purpose of the exemptions is not to be punitive to the other locations in the city. Rather the intent is to incentivize redevelopment of the two areas of the city that are recognized as in need of redevelopment.

### **STAFF RECOMMENDATION**

In an effort to be consistent with the state's recently revised standards for 4COP SRX licenses, Staff recommends revising the Zoning Code to be the same as the state's standards. Staff does not recommend revising the exemptions for the AOD and DPOD.

Select Year:  

## The 2014 Florida Statutes

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Title XXXIV  
ALCOHOLIC BEVERAGES AND  
TOBACCO

Chapter 561  
BEVERAGE LAW:  
ADMINISTRATION

[View Entire  
Chapter](#)

### 561.20 Limitation upon number of licenses issued.—

(1) No license under s. 565.02(1)(a)-(f), inclusive, shall be issued so that the number of such licenses within the limits of the territory of any county exceeds one such license to each 7,500 residents within such county. Regardless of the number of quota licenses issued prior to October 1, 2000, on and after that date, a new license under s. 565.02(1)(a)-(f), inclusive, shall be issued for each population increase of 7,500 residents above the number of residents who resided in the county according to the April 1, 1999, Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida, and thereafter, based on the last regular population estimate prepared pursuant to s. 186.901, for such county. Such population estimates shall be the basis for annual license issuance regardless of any local acts to the contrary. However, such limitation shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors in such county.

(2)(a) No such limitation of the number of licenses as herein provided shall henceforth prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. 561.01(21), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. 561.01(21), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; provided that the provisions of this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under the provisions of chapter 509, except that the license shall be issued only to the person or corporation which operates the hotel or motel operation and not to the association of condominium owners;

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under the provisions of chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the State Constitution of 1885, as amended, and incorporated by reference in s. 6(e), Art. VIII of the State Constitution, except that the license shall be issued only to the person or corporation which operates the hotel or motel operation and not to the association of condominium owners;

~~4. Any restaurant having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time and deriving at least 51 percent of its gross revenues from the sale of food and nonalcoholic beverages; however, no restaurant granted a special license on or after January 1, 1958, pursuant to general or special law shall operate as a package store, nor shall intoxicating beverages be sold under such license after the hours of serving food have elapsed; or~~

5. Any caterer, deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, licensed by the Division of Hotels and Restaurants under chapter 509. Notwithstanding any other provision of law to the contrary, a licensee under this subparagraph shall sell or serve alcoholic beverages only for consumption on the premises of a catered event at which the licensee is also providing prepared food, and shall prominently display its license at any catered event at which the caterer is selling or serving alcoholic beverages. A licensee under this subparagraph shall purchase all alcoholic beverages it sells or serves at a catered event from a vendor licensed under s. 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), as appropriate. A licensee under this subparagraph may not store any alcoholic beverages to be sold or served at a catered event. Any alcoholic beverages purchased by a licensee under this subparagraph for a catered event that are not used at that event must remain with the customer; provided that if the vendor accepts unopened alcoholic beverages, the licensee may return such alcoholic beverages to the vendor for a credit or reimbursement. Regardless of the county or counties in which the licensee operates, a licensee under this subparagraph shall pay the annual state license tax set forth in s. 565.02(1)(b). A licensee under this subparagraph must maintain for a period of 3 years all records required by the department by rule to demonstrate compliance with the requirements of this subparagraph, including licensed vendor receipts for the purchase of alcoholic beverages and records identifying each customer and the location and date of each catered event. Notwithstanding any provision of law to the contrary, any vendor licensed under s. 565.02(1) subject to the limitation imposed in subsection (1), may, without any additional licensure under this subparagraph, serve or sell alcoholic beverages for consumption on the premises of a catered event at which prepared food is provided by a caterer licensed under chapter 509. If a licensee under this subparagraph also possesses any other license under the Beverage Law, the license issued under this subparagraph shall not authorize the holder to conduct activities on the premises to which the other license or licenses apply that would otherwise be prohibited by the terms of that license or the Beverage Law. Nothing in this section shall permit the licensee to conduct activities that are otherwise prohibited by the Beverage Law or local law. The Division of Alcoholic Beverages and Tobacco is hereby authorized to adopt rules to administer the license created in this subparagraph, to include rules governing licensure, recordkeeping, and enforcement. The first \$300,000 in fees collected by the division each fiscal year pursuant to this subparagraph shall be deposited in the Department of Children and Families' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs. The remainder of the fees collected shall be deposited into the Hotel and Restaurant Trust Fund created pursuant to s. 509.072.



# City of Pompano Beach, Florida

Names of Commrs.	M	S	Y	V	N	
<p><b>CITY COMMISSION MEETING MINUTES FEBRUARY 10, 2015</b></p> <p><b>PAGE 51</b></p> <p><b><u>REGULAR ITEMS - CONTINUED</u></b></p> <p>Mr. Bird then addressed the second part of the item regarding restaurants bars. He said that the City's definition on restaurant bar, is a restaurant that has 3,000 square feet of customer service area and 200 seats. It has always been slightly more restrictive than the state's requirement. Under the state, prior to September 2014, there is a 4,000 square feet of service area, which has been enforced, as 4,000 square feet of floor area. Because of the City's ordinance, certain restaurants had to enclose their outdoor area to get to the 3,000 square feet of customer area, which has positive effects. Over time, some of these were known as "blue laws" which has changed. However, the State and Broward County has lowered it to 2,500 square feet of service area and 150 seats.</p> <p>Subsequently, staff is recommending that the City lower its 3,000 to 2,500 square feet but keep the customer service area as is.</p> <p>Mr. Bird stated that except in the AOD there are no distance requirements between regular bars and for a small portion over by Flagler. Therefore, staff is not recommending any changes to the districts requirements. To relax it the City does not have to prove anything, but it would have to prove itself if it is going to make it more restrictive. So, if staff must move in that direction, they will have to take it back to the Planning and Zoning Board and then bring it back before the commission. This could happen within one month.</p> <p>Vice Mayor Burrie would go along with that and she realizes that the AOD and the DPOD are where these businesses can do all kinds of different things, but there are other businesses in town. She is unaware of any other districts, but she does not think there is a problem with restaurants that have bars added to them. The problem is really with the liquor stores, but the real problem is that people purchase the liquor and go outside to drink it on the streets. Therefore, she would agree to lower from 3,000 square feet to 2,500 square feet to give the others a chance and not just in the AOD.</p>						



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## ARTICLE 4: USE STANDARDS

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### PART 2 PRINCIPAL USES AND STRUCTURES

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#### 155.4218 COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS

##### A. BAR OR LOUNGE

###### 2. Definition

A bar or lounge is an establishment having as its principal or predominant use the serving of ~~beer, wine, or liquor~~ alcoholic beverages for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. ~~The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food.~~ This use includes bottle clubs, as defined in Chapter 561 of the Florida Statutes, in which patrons consume alcoholic beverages they bring onto the premises.

###### 3. Standards

A bar or lounge may only be considered an accessory use to a restaurant provided it is operated by the same management, and the restaurant has indoor dining accommodations for service of 200 150 or more patrons at tables occupying more than 3,000 2,500 square feet of customer service area, and the sale of alcoholic beverages is strictly incidental to the serving of food deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.

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## PART 5 ALCOHOLIC BEVERAGE ESTABLISHMENTS

Alcoholic beverage establishments shall be subject to the special standards in this Part.

### 155.4501. SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS

#### A. General

Except as otherwise provided in ~~subsection B~~ Table 155.4501.B below, any alcoholic beverage establishment shall be separated from certain existing uses in accordance with Table 155.4501, Minimum Separation from Certain Existing Uses.

**TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES**

TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES <sup>1</sup>	
Existing Use	Minimum Separation <sup>2</sup>
Any other use involving the sale of alcoholic beverages other than those uses listed in Section 155.4501.B	1,000 feet (Measurement Type 1)
Sexually oriented business	
Child care facility	500 feet (Measurement Type 2) and 300 feet (Measurement Type 3)
School	
Place of worship	

**NOTES:**

- Measurement Type 1: ~~Separation~~ Separation shall be measured from main entrance to main entrance of the establishments by airline route
- Measurement Type 2: Separation shall be measured from main normal public ~~entrance~~ entrance of Alcoholic Beverage ~~Establishment~~ Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.
- Measurement Type 3: Separation shall be measured from main normal public ~~entrance~~ entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measure by airline route.
- All separations shall be measured from establishments located ~~within~~ within or outside of the City limits.
- Compliance with these separation standards shall not be affected by the subsequent rezoning of the site of the alcoholic beverage establishment to AOD, conveyance of city-owned property, or the establishment of one of the uses from which separation is required on a property closer than the required separation distance. In such case, the alcoholic beverage establishment shall be construed as continuing to comply with the separation standards.

#### B. Exceptions

Table 155.4501.B lists uses that are exempt from the ~~The~~ separation requirements in ~~subsection A above~~ Table 155.4501.A. shall not apply to the following alcoholic beverage establishments:

- An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises;
- A bar or lounge, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating) located within the Atlantic Boulevard Overlay district (AOD);

3. A bar or lounge operated as an accessory use to a restaurant whose dining area(s) accommodate 200 or more seated customers and occupy more than 3,000 square feet of floor area, provided, however, that this exemption shall apply in respect to required separation from child care facilities, schools, and places of worship only if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence other than a lounge sign indicating dancing and entertainment;
4. A bar or lounge operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel—provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence other than a lounge sign indicating dancing and entertainment;
5. An enclosed restaurant that sells only beer and/or wine—provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no externally visible display window or sign indicating the sale of alcoholic beverages;
6. A lodge or club that limits on-premise consumption of alcoholic beverages to only lodge or club members—provided, however, that this exemption shall apply in respect to required separation from a child care facility, school, or place of worship only if there is no externally visible display window or sign indicating the sale of alcoholic beverages;
7. A bowling alley that contains ten or more bowling lanes within an enclosed building;
8. A motion picture theater with more than 100 seats;
9. A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area; or
10. A use located on property owned by the city—provided, however, that this exemption applies only to required separation from a child care facility, school, or place of worship.

**TABLE 155.4501.B: Exceptions To The Minimum Separation Of Uses Involving The Sale Of Alcoholic Beverages From Certain Existing Uses**

<u>Use and Criteria</u>	<u>Required Separation</u>	
	<u>Any other use involving the sales of alcoholic beverages; and Sexually oriented business</u>	<u>Child care facility; School; and Place of Worship</u>
<u>An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A bowling alley that contains more than nine bowling lanes</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A motion picture theater that contains more than 100 seats</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area</u>	<u>Exempt</u>	<u>Exempt</u>
<u>A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has indoor dining accommodations for service of 150 or more patrons at tables occupying more than 2,500 square feet of customer service area, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.</u>	<u>Exempt</u>	<u>Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence</u>
<u>A bar or lounge which is operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel</u>	<u>Exempt</u>	<u>Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence</u>
<u>An enclosed restaurant which sells only beer and/or wine</u>	<u>Exempt</u>	<u>Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages</u>
<u>A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members</u>	<u>Exempt</u>	<u>Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages</u>
<u>A use located on property owned by the city.</u>	<u>Not Exempt</u>	<u>Exempt</u>
<u>Within the Atlantic Boulevard Overlay District (AOD), only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).</u>	<u>Exempt</u>	<u>Exempt</u>