Meeting Date: September 8, 2015 Agenda Item 42

REQUESTED COMMISSION ACTION:

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

SHORT TITLE CONSIDERATION OF A REQUEST FOR "EXTENDED OPERATING HOURS LICENSE." THE LICENSE WOULD PERMIT THE SALES OF ALCOHOLIC BEVERAGES TO BE EXTENDED UNTIL 4:00 A.M.

Summary of Purpose and Why:

Like many other cities, Pompano Beach regulates the hours of sales of alcoholic beverages. City Code of Ordinances Sections 110.10(A) and (B) restricts the sale of alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. On July 13, 2015 the city received another request from Mr. Michael Moskowitz, from the Law Offices of Moskowitz, Mandell, Salim, and Simowitz to offer an "Extended Operating Hours License". The license would permit the sales of alcoholic beverages to be extended until 4:00 a.m. In his letter to the city MrMoskowitz states that the need for the "Extended Operating Hours License" is due to "challenges facing Pompano based businesses from other cities". In support of his request, Mr. Moskowitz included a proposed code amendment to City Code of Ordinances Ch. 110 (Alcoholic Beverages). Staff analyzed the proposed code amendment in April 2014, and prepared a memo comparing the changes to other cities in Broward County in the attached Memorandum 14-098. Staff has prepared the item for discussion and direction.

(1) Origin of request for this action: Development Services Dept.
(2) Primary staff contact: Robin M. Bird/ Daniel Keester Ext. 5541
(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	3/21/2014	Discussion	Memo #14-098

X City Manager

ACTION TAKEN BY COMMISSION:

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

p mpano beach
Florida's Warmest Welcome

MEMORANDUM

Development Services

MEMORANDUM NO. 14-098

DATE: March 21, 2014

TO: Dennis Beach, City Manager

VIA: Robin M. Bird, Development Services Director

FROM: Karen Friedman, AICP, Planner

SUBJECT: Analysis of proposed Code Amendment to Ch 110 – "Extended Operating Hours License"

Like many other cities, Pompano Beach regulates the hours of sales of alcoholic beverages. City Code of Ordinances Sections 110.10(A) and (B) restricts the sale of alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. On January 6, 2014 the city received a request from Mr. Michael Moskowitz, from the Law Offices of Moskowitz, Mandell, Salim, and Simowitz to offer an "Extended Operating Hours License". The license would permit the sales of alcoholic beverages to be extended until 4:00 a.m. In his letter to the city Mr. Mosowitz states the need for the "Extended Operating Hours License" is there are "challenges facing Pompano based businesses from other cities". In support of his request, Mr. Moskowitz included a proposed code amendment to City Code of Ordinances Ch. 110 (Alcoholic Beverages).

In this memo staff includes an analysis of the proposed code amendment followed by items for further consideration and discussion.

ANALYSIS OF PROPOSED CODE AMENDMENT

The below table includes the hours of sales of alcoholic beverages for the following surrounding municipalities: Coconut Creek, Deerfield Beach, Fort Lauderdale, Hollywood, Lauderdale by the Sea, Oakland Park, Sunrise, Weston, and Wilton Manors. The table indicates that Pompano Beach's existing restriction on sales of alcoholic beverages after 2:00 a.m. is consistent with Coconut Creek, Deerfield Beach (except Saturday.), Lauderdale by the Sea, Sunrise (weekdays), and Wilton Manors (weekdays). Further, Pompano Beach's existing restriction on sales of alcoholic beverages is two hours later than Fort Lauderdale and Oakland Park. However Fort Lauderdale and Oakland Park are among the six cities that offer an "Extended Operating Hours License". The six cities that allow an "Extended Operating Hours License" increase the sales time anywhere from 2:00 a.m. on weekdays and 3:00 a.m. on weekends in Fort Lauderdale and Oakland Park, up until 6:00 a.m. for the Mainstreet area in Coconut Creek. As shown in the below table, Deerfield Beach, Lauderdale by the Sea, and Wilton Manors do not offer an "Extended Operating Hours License".

Municipality	Hours of Sales - Alcoholic Beverages	"Extended Operating Hours License"
Pompano Beach	**2:00 a.m.**	***4:00 a.m. (proposed)***
Coconut Creek ("MainStreet" only)	2:00 a.m.	6:00 a.m.
Deerfield Beach	2:00 a.m. / Saturday – 3:00 a.m.	*Not Offered*
Fort Lauderdale	12:00 a.m.	Weekday - 2:00 a.m. / Weekend – 3:00 a.m.
Hollywood	2:30 a.m.	4:00 a.m.
Lauderdale By The Sea	2:00 a.m.	*Not Offered*
Oakland Park	12:00 a.m.	Weekday - 2:00 a.m. / Weekend – 3:00 a.m.
Sunrise	Weekday - 2:00 a.m. / Weekend – 3:00 a.m.	Weekday - 3:00 a.m. / Weekend – 4:00 a.m.
Weston	1:00 a.m.	3:00 a.m.
Wilton Manors	Weekday - 2:00 a.m. / Weekend – 3:00 a.m.	*Not Offered*

The below table compares the fee included in the proposed code amendment to the fee charged by the six aforementioned cities that offer an "Extended Operating Hours License".

The proposed code amendment's fee is a tiered fee that would increase based on the size of the establishment. Typically a tiered fee system is considered a more equitable fee structure. However, currently none of the other municipalities utilize a tiered fee (Oakland Park plans to switch to a tiered fee). Further, the proposed code amendment does not include a maximum fee limit. For instance, an establishment with 200 persons at maximum occupancy would be required to pay $4,000.00 and therefore much higher than surrounding municipalities. Finally, neither the letter nor the proposed code amendment provides an explanation for the $20.00 per person fee. It is unclear if this fee truly reflects the cost to the city to review and/or approve the proposed "Extended Operating Hours License".

Municipality	License Fee
Pompano Beach (Proposed Ordinance)	***Annual fee of $20.00 per individual based on the posted occupancy of the establishment***
Coconut Creek	$1,000.00
Fort Lauderdale	No fee
Hollywood	New Application $2,400.00 Renewal Application $1,800.00 License Fee (less than 150 seats) $800 License Fee (150 seats or greater) $1,900
Oakland Park	$2,000.00 (City is considering revising fee to be based on size of establishment)
Sunrise	$315.00 to $630.00 depending on size of establishment plus additional fees for background checks and notification of surrounding property owners.
Weston	$5,500.00

The following table compares the approval boards for an application for an "Extended Operating Hours License". The proposed code amendment recommends an application for an "Extended Operating Hours License" to be approved by the City Commission. The comparison of approval boards is shown in the following table.

Municipality	Application Approval Board
Pompano Beach (Proposed Ordinance)	***City Commission***
Coconut Creek	City Commission
Fort Lauderdale	City Manager
Hollywood	City Manager
Oakland Park	City Manager
Sunrise	City Commission
Weston	City Commission

The code amendment includes three criteria to be used by the City Commission in order to determine if an application for an "Extended Operating Hours License" should be approved and five standards to determine if an "Extended Operating Hours License" should be suspended or revoked. The below table compares the three approval criteria and five suspension/revocation standards to those utilized by the six aforementioned cities that offer an "Extended Operating Hours License". (Staff initially identified that the proposed approval criteria are those utilized by the City of Weston and the proposed suspension/revocation standards are those utilized by the City of Fort Lauderdale.) Staff's analysis of the criteria and standards, as shown in the following table, are based on the following four considerations:

1. *Addresses the impacts caused by the additional hours of operation.* While not all establishments, such as restaurants, will stay open later if granted an "Extended Operating Hours License", other

establishments such as bars and nightclubs will likely have additional hours of operations if granted an "Extended Operating Hours License".

2. *Addresses the impacts caused by the additional access to alcoholic beverages.* Typically cities restrict the hours of sale of alcoholic beverages in order to limit alcohol related harms and related impacts on neighboring properties and the community at large. These harms might include excessive alcohol consumption and binge drinking, public drunkenness, violation of open container laws, loitering by intoxicated individuals and driving while intoxicated. Additional access to alcoholic beverages might result in an increase of these harms.

3. *As compared to the regulations of surrounding municipalities that offer an "Extended Operating Hours License".* Mr. Moskowitz cites the reason for the code amendment is due to challenges from other cities. Therefore staff compared the proposed standards to determine if they are consistent with standards from surrounding municipalities. As previously mentioned, Staff has identified that the proposed approval criteria are those utilized by the City of Weston and the proposed suspension/revocation standards are those utilized by the city of Fort Lauderdale.

4. *Implementation challenges.* Proposed criteria and standards may be too subjective or restrictive. Further they might duplicate existing city regulations and therefore are unnecessary.

CRITERIA / STANDARD	Addresses the impacts caused by:		Compared to the regulations of surrounding municipalities	Implementation challenges
	Additional hours of operation.	Additional access to alcoholic beverages.		
APPROVAL CRITERIA #1 Off-Street Parking	This standard presumes additional hours of operation will result in need for additional parking.	This standard does not address impacts caused by additional access to alcoholic beverages.	Utilized by Weston - §83.06(B)(1).	Pompano Beach's Zoning Code already requires all eating and drinking establishments to provide off-street parking based on maximum occupancy, regardless of hours of operations.
APPROVAL CRITERIA #2 Law Enforcement activities	This standard addresses the establishment's history with law enforcement activities. It infers that as hours of operation increase, law enforcement activities will increase.	This standard does not address impacts caused by additional access to alcoholic beverages as none of the law enforcement activities listed in the standard are directly related to additional consumption of alcoholic beverages.	Utilized by Hollywood – §113.26(B)(3)(a) and Weston - §83.06(B)(2). Similar standard utilized by Sunrise - §3-11(a)(1).	The standard is very subjective. It does not advise the length of time to be considered (i.e. over the past year or the past five years?). It does not clarify if the city can consider law enforcement activities of other establishments owned and/or operated by the same management located within the city and/or located in other municipalities. Finally, would the city commission only be able to consider law enforcement activity that is verified by the police department? Does this standard unintendedly benefit newly established businesses (they would likely not have a history of law enforcement activities.)?
APPROVAL CRITERIA #3 Impacts on neighboring residential properties	This standard infers that as hours of operation increase, so would adverse impacts on neighboring residential properties.	The standard does not address impacts on neighboring residential properties specifically linked to and/or caused by the additional consumption of alcoholic beverages.	Utilized by Hollywood – §113.26(B)(3)(b) and. Weston - §83.06(B)(3). Similar standard utilized by Sunrise - §3-11(a)(3).	It is unclear what is meant by neighboring properties (Does this include only abutting properties? Properties separated by a street?). Standard is very limited and only considers the impacts on residential properties. Standard is too restrictive by predetermining the impacts to neighboring properties. Further, the city's zoning code and code of ordinances already regulate noise, parking and exterior lighting.
SUSPENSION STANDARD #1 *Off-Street Parking*	This standard infers that additional hours of service results in inadequate off-street parking and that the parking will have a particular impact on residential properties.	This standard addresses parking impacts specifically linked to and/or caused by the additional consumption of alcoholic beverages, including hazardous parking.	Utilized by Fort Lauderdale – §5-29(b)(7)(a). Similar standard utilized by Oakland Park – §3-23(b)(3)(a).	While similar to approval criteria #1, (from Weston), this language (from Fort Lauderdale) is not consistent. Unlike approval criteria #1, this standard provides specific "evidence" that must be used to show there is not sufficient parking. City would restrict itself by stating what it can use as "sufficient evidence" to suspend a license.

CRITERIA / STANDARD	Addresses the impacts caused by:		Compared to the regulations of surrounding municipalities	Implementation challenges
	Additional hours of operation.	Additional access to alcoholic beverages.		
SUSPENSION STANDARD #2 *Law Enforcement Activities*	This standard addresses additional law enforcement activity caused by additional hours of operation.	This standard addresses additional law enforcement activity specifically linked to and/or caused by the additional consumption of alcoholic beverages, including underage drinking, violation of open container laws and loitering by intoxicated individuals.	Utilized by Fort Lauderdale – §5-29(b)(7)(b). Similar standard utilized by Oakland Park – §3-23(b)(3)(b) and Sunrise - §3-12(b)(1)(b).	While similar to approval criteria #3, (from Weston), this language (from Fort Lauderdale) is not consistent. Standard is unclear as to what constitutes "proper order and control". Also it is unclear how city will determine if illegal activities begin before 2:00 a.m. or after 2:00 a.m.
SUSPENSION STANDARD #3 *Complaints verified by Police / Impacts on neighboring properties*	This standard addresses impacts on neighboring properties caused by additional hours of operation.	This standard addresses additional law enforcement activity specifically linked to and/or caused by the additional consumption of alcoholic beverages, including underage drinking, violation of open container laws and loitering by intoxicated individuals.	Utilized by Fort Lauderdale – §5-29(b)(7)(c). Similar standard utilized by Oakland Park – §3-23(b)(3)(c) .	While similar to approval criteria #3, (from Weston), this language (from Fort Lauderdale) is not consistent. Standard only allows city to consider impacts on neighboring properties that are verified by police. Standard may not allow anecdotal evidence by neighboring property and business owners. City would restrict itself by stating what an "applicable defense" maybe used by the licensee. Standard is unclear as to what constitutes "adequate security personnel". It is unclear why additional trash and garbage is a concern and/or how it will be determined what level of trash and garbage are produced prior to 2:00 a.m.
SUSPENSION STANDARD #4 *Violation of noise ordinance*	This standard addresses additional noise disturbances caused by additional hours of operation.	This standard addresses additional noise disturbances caused by additional consumption of alcoholic beverages.	Utilized by Fort Lauderdale – §5-29(b)(7)(d). Similar standard utilized by Oakland Park – §3-23(b)(3)(c) and Sunrise - §3-12(b)(1)(c).	The city's noise control ordinance already restricts noise after 10:00 p.m. Further violation of any of the city's code of ordinances should result in a suspension of the license. There is no need to separately list this ordinance.
SUSPENSION STANDARD #5 *Activities must be traceable to licensee*	N/A	N/A	Utilized by Fort Lauderdale – §5-29(b)(7)(k).	Standard only allows complaints that are verified by police to be utilized when considering suspension. Standard may not allow anecdotal evidence by neighboring property and business owners.

ITEMS FOR FURTHER CONSIDERATION / DISCUSSION:
Staff requests direction from the City Commission on the following:
License Fee:

- Should a tiered fee schedule based on maximum occupancy be instituted?
- Should a minimum and maximum fee be established?
- Should the license fee solely reflect staff costs to review an application?
- Should the license fee reflect estimated costs for law enforcement activities between the hours of 2:00 a.m. and 4:00 a.m.?

Approval Criteria:

- Should all establishments be allowed to apply for a license?
  - Should only establishments located within a certain geographic location be permitted to apply? (i.e. East CRA? DPOD?)
  - Should only certain size establishments be allowed to apply?
- What criteria should be utilized when evaluating an application?
  - Staff does not recommend instituting proposed approval criteria #1 (off-street parking).
  - Staff recommends replacing proposed approval criteria #2 (law enforcement activities) with criteria from the City of Sunrise: §3-11(a)(1) and §3-11(a)(2) (see attached). Further Staff recommends the inclusion of law enforcement activities specifically related to consumption of alcohol to be added to the list of law enforcement activities to be considered.
  - Staff recommends utilizing the proposed approval criteria #3 (impacts on neighboring residential properties) with a slight modification that will allow for consideration of impacts on all neighboring properties (commercial, institutional etc...) and to remove reference to parking, noise, and lights as these items are already regulated by the city.

- **Suspension Standards:**
  - What criteria should be utilized when suspending and/or revoking a license?
    - Does the city want to restrict evidence to that which has been verified by the police department?
    - Staff does not recommend utilizing the proposed standards. They are inconsistent with the approval criteria, restrict the city's use of evidence, and are too limited in their scope.
    - Staff recommends utilizing a generic suspension standard similar to that used by Coconut Creek §3-2(C)(4) which states: *Should the city manager find and determine that the licensee has violated any condition of the extended hours license, he may immediately revoke said extended hour license. The revocation of said license may be appealed to the city commission in writing, within thirty (30) days. The city commission shall schedule a hearing on the appeal within thirty (30) days of receipt of the appeal.*

Should you have any questions or comments, please contact me at extension 7792.

Enclosures:

1. Copy of Letter dated December 31, 2013 from Mr. Michael W Moskowitz
2. Proposed Text Amendment by Michael W Moskowitz
3. City of Coconut Creek – Chapter 3 - Alcoholic Beverages
4. City of Fort Lauderdale – Chapter 5 – Alcoholic Beverages
5. City of Hollywood – Chapter 113 – Alcoholic Beverages
6. City of Oakland Park – Chapter 3 - Alcoholic Beverages
7. City of Sunrise – Chapter 3 - Alcoholic Beverages
8. City of Weston – Chapter 83 – Alcoholic Beverages

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July 8, 2015

CITY OF POMPANO BEACH
OFFICE OF CITY CLERK
2015 JUL 13 AM 9:34

VIA E-MAIL AND U.S. MAIL

Dennis Beach, City Manager
City of Pompano Beach
100 West Atlantic Boulevard
Pompano Beach, FL 33060

Re: Extended Operating Hours License

Dear Mr. Beach:

This firm represents Pompano Hospitality Group, Inc. as well as other hospitality businesses.

Pursuant to my letter dated December 31, 2013, we requested that the Pompano Beach City Commission schedule a discussion of an Extended Operating Hours License. A copy of the December 31, 2013 letter and enclosures are attached hereto.

This matter was scheduled for discussion on the City Commission Agenda of April 8, 2014. At that time, a Motion was made and passed to remove the Item from the Agenda because it was "premature and the Commission should have a Workshop on it".

Inasmuch as the Commission has not scheduled a Workshop on the item, we are requesting that the Extended Operating Hours License be scheduled on the City Commission Agenda on July 28, 2015.

Thank you for your courtesy and consideration on this matter.

Very truly yours,

MOSKOWITZ, MANDELL, SALIM & SIMOWITZ, P.A.

BY: _____
MICHAEL W. MOSKOWITZ

MWM/dkd

Cc: Mayor Lamar Fisher – lamar.fisher@copbfl.com
Vice Mayor Charlotte Burrie – charlotte.burrie@copbfl.com
Commissioner Barry Dockswell – berry.dockswell@copbfl.com
Commissioner Rex Hardin – rex.hardin@copbfl.com
Commissioner Ed Phillips – ed.phillips@copbfl.com
Commissioner Barry Moss – barry.moss@copbfl.com

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December 31, 2013

VIA E-MAIL AND U.S. MAIL

Dennis Beach, City Manager
City of Pompano Beach
100 West Atlantic Boulevard
Pompano Beach, FL 33060

Re: Extended Operating Hours License

Dear Mr. Beach:

This firm represents Pompano Hospitality Group, Inc. as well as other hospitality businesses.

I recently appeared before the Pompano Beach Economic Development Council at its meetings in June and September, 2013. We have also met with the Pompano Beach Chamber of Commerce.

The purpose of these meetings was to discuss the concept of Pompano Beach adopting an Extended Operating Hours License for the sale and dispensing of alcoholic beverages. Currently, the hours of sale are controlled by Chapter 110 of the Pompano Beach Code of Ordinances. Specifically, Section 110.01 prohibits the sale or dispensing of alcoholic beverages between the hours of 2:00 and 7:00 AM. A copy of the Ordinance is attached hereto for your reference. Many cities have an ordinance allowing extended hours based upon specified criteria. It is an annually renewable license subject to strict control by the City Commission with an annual fee required to be paid.

In our meetings with the Pompano Chamber of Commerce and Pompano Beach Economic Development Council, we discussed this concept and proposed a sample Extended Hours Ordinance to them. A copy of the proposed Extended Hours Ordinance is attached hereto for your reference.

Both the Pompano Chamber of Commerce and the Economic Development Council had extensive discussion about the challenges facing Pompano based businesses from other cities as well as a recognition that the Isle Of Capri casino is not subject to the Pompano Beach Code section limiting hours of operation. The Economic Development Council overwhelmingly endorsed this concept and the Extended Operating Hours License at its September 23, 2013 meeting. A copy of the Minutes reflecting the discussion and action of the Economic Development Council is attached hereto for your reference.

I am requesting that the subject of an Extended Operating Hours License be scheduled for a discussion by the City Commission at its next meeting.

I await your advice.

Very truly yours,

MOSKOWITZ, MANDELL, SALIM & SIMOWITZ, P.A.

BY: _____
MICHAEL W. MOSKOWITZ

MWM/dkd

Cc: Mayor Lamar Fisher
Vice Mayor George Brummer
Commissioner Barry Dockswell
Commissioner Charlotte Burrie
Commissioner Rex Hardin
Commissioner Woodrow J. Poitier

Print

Pompano Beach, Florida Code of Ordinances

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Hours of sale

110.02 Unlawful sales

110.03 Conduct on premises

§ 110.01 HOURS OF SALE.

(A) No vendor or retail business authorized under the provisions of the state beverage law to sell, offer for sale, deliver, or otherwise distribute alcoholic beverages, for consumption off the premises only, nor any employee thereof, shall sell, offer for sale, deliver, or otherwise distribute any alcoholic beverage on any day between the hours of 2:00 a.m. and 7:00 a.m.

(B) No vendor or retail business authorized under the provisions of the state beverage law to sell, offer for sale, deliver, or otherwise distribute alcoholic beverages for consumption on the premises, nor any employee thereof, shall allow the establishment to be open for business on any day between the hours of 2:00 a.m. and 7:00 a.m., nor allow any customer, patron, or other person, except employees, to remain upon the premises during the aforementioned hours.

(C) Notwithstanding any provision in this section to the contrary, any business in Pompano Beach that maintains a pari-mutuel permit under F.S. Chapter 550, and a valid Slot Machine Operators License under F.S. Chapter 551, shall be permitted to offer and/or sell alcoholic beverages under their existing liquor license on the premises during the hours that slot machine gaming is allowed under F.S. § 551.116.

(Ord. 2012-67, passed 9-11-12)

§ 110.02 UNLAWFUL SALES.

(A) No person shall give, sell, deliver, serve, or permit to be served any alcoholic beverages to the following.

(1) Any person under the age of majority, actually or apparently.

(2) To any person who is intoxicated.

(3) To any patient under the supervision or control of any state hospital, whether the patient is on furlough or otherwise.

EXTENDED OPERATING HOURS LICENSE

(A) *Application.* Any person or vendor or any place of business operating in the City, and duly and regularly licensed by the State of Florida to sell and dispense alcoholic beverages, wine or beer for consumption on premises therein, may apply for an Extended Operating Hours License. Such license application shall be processed using the criteria listed in subsection (B) below. The fee for the issuance or renewal of said license shall be based upon the establishment's posted occupancy. The applicant shall pay an annual fee of $20.00 per individual based on the posted occupancy. This annual fee may be amended by resolution of the City Commission. Such Extended Operating Hours with License shall permit and extend the hours in which such licensee may stay open and sell alcoholic beverages for consumption on the premises until not later than 4:00 a.m. Every such license shall expire on September 30 of each and every year. The fee for the issuance or renewal of said license shall be paid within 30 days of the initial approval or any renewal date. Failure to timely pay the fee shall result in the immediate and automatic revocation of the approval or license.

The City Clerk shall place all applications for such Extended Operating Hours License on the agenda for the first regular City Commission meeting to be held in September, or as soon thereafter as may be heard, and shall notify all qualified applicants of the place which their applications will be heard. The City Commission shall consider all applications for an Extended Operating Hours License at a duly noticed public hearing. .

The City Commission may grant or deny such applications for Extended Hours Operating License.

(B) Criteria. The specific criteria for the City Commission's consideration on an application for Extended Operating Hours License are as follows:

(B)(1) The business premises of any applicant for an Extending Operating Hours License must have a suitable amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to the adverse impact on adjacent residential areas of any illegal or hazardous parking.

(B)(2) The amount and degree of law enforcement activities generated by the operation of the establishment, both outside and inside the particular location, with particular emphasis on the vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees, patrons or others associated with the establishment as based upon complaints verified by the police department. The City Commission shall consider whether the need for law enforcement involvement was the result of the establishment's failure or inability to maintain proper order and control during extended business hours.

(B)(3) The adverse effects if any, that the extended hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or exterior lighting on nearby residential properties.

(C) ***Conditions.*** The City Commission may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed by it to be necessary to mitigate or eliminate the adverse effects of such extended hours. These conditions may include, without being limited to, provision by the applicant, at his or her expense, additional off-street parking, security personnel and screening and buffering from nearby properties. The applicant must comply with applicable noise regulations.

C(1) The applicant for the Extended Operating Hours License must be the operator of the establishment and cannot, at any time, assign, sublease or transfer the Extended Operating Hours License without complying with subsection (G) below.

(D) Renewal. The granting of an Extended Operating Hours License to a particular licensee is a privilege subject to suspension or revocation at any time by the City Commission as set forth in subsection (E) below, and no person may reasonably rely on a continuation of that privilege. In the absence of ongoing revocation proceedings, an Extended License may be renewed annually upon payment of the aforementioned fee prior to October 31 of each year.

(E) ***Suspension and Revocation.*** As a condition of the continuation of the privilege, vendors are required to take all necessary steps to minimize the negative impacts that their establishment may cause in nearby residential or commercial neighborhoods. The City Commission shall consider the following in deciding whether to suspend or condition the privilege:

(E)(1) *Standards*

a. Whether there is adequate off-street parking in relation to the demands created during the extra hours of operation, with special regard to any adverse impact on adjacent residential areas of any illegal or hazardous parking that can be traced directly to a particular vendor. For the purposes of this section, sufficient evidence of an adverse impact on adjacent residential areas will exist upon verification by police or parking enforcement officials that, within the previous 120 days, more than ten (10) patrons of the vendor have parked illegally on public rights of way or property, or on private property upon receipt of a complaint by the property owner. This provision will only apply if the parking provided by the vendor is at maximum capacity at the time the illegal parking takes place, or is otherwise determined to be inadequate given the size of the crowds that the vendor draws;

b. Law enforcement activities on the licensee's property during the extra hours of operation, both outside and inside the permitted location, with particular emphasis on vandalism, and illegal activity of any kind by employees, or others

associated with the establishment, including allowing underage drinking, violation of open container laws and loitering by intoxicated individuals. The City Commission shall also consider whether the need for law enforcement involvement was the result of the establishment's failure or inability to maintain proper order and control during the extended business hours;

c. Complaints verified by the police, arising from adverse effects extra hours of operation have upon neighboring properties, including the effects of noise, parking, vandalism, generation of trash or garbage, loitering by intoxicated persons or exterior lighting on neighboring residential properties. It shall be a defense to the applicability of this section that the licensee has adequate security personnel and has implemented a policy requiring that security personnel patrol the premises and the property adjacent to the licensee, as well as all known parking lots that patrons use, to assure the orderly conduct of patrons as they arrive at the establishment or as they depart. Upon a showing of such security precautions, the licensee shall only be held accountable if the conduct complained of constitutes a violation by the licensee of any provision of the City's Code of Ordinances, state or federal law.

d. Violations of the City's noise regulations.

e. In order to invoke the enforcement provisions of this section, the activities described hereinabove must be directly traceable to the particular licensee against whom action is being taken, and also must be verified by police officers on the scene. Although not required, police officers may, at their discretion, issue recorded warnings that shall not be considered a notice of violation, to put the licensee on notice that a particular problem or problems must be addressed and could result in a notice of violation if not corrected.

(E)(2) ***Procedure***

a. Notices of violation of this section shall be issued to any licensee that meets, or where applicable, fails to meet the criteria established in subsection (E)1 above. The notice of violation shall be left with the owner, proprietor, or highest-ranking employee then on the premises. An additional copy of the notice will also be mailed via U.S. mail, certified, return receipt requested, to the licensee at the street address provided in the application. Proof of delivery by either of these two (2) methods (hand delivery or mail) shall be sufficient to establish receipt by the licensee. Notices sent by mail that are returned or not accepted for any reason shall be deemed proper notice of the violation, provided that the notice is sent to the person and address named on the application.

b. Should three (3) notices of violation within any three (3) consecutive month period be issued to any licensee, the City Manager shall place the licensee's Extended Operating Hours License on the City Commission agenda to consider the licensee's Extended Operating Hours License.

c. Such agenda item shall be publicly advertised in a newspaper of general circulation at least fourteen (14) days prior to any hearing of the agenda item, and written notice of the charges against the licensee shall be provided at least fourteen (14) days in advance of the hearing. The notice shall also contain the date, time and place of the hearing. Such notice shall also advise the licensee of the right to be heard, of the right to be represented by counsel, of the right to present sworn testimony on the licensee's behalf, and the right to appeal to circuit court.

d. After consideration of the matter and allowing the licensee to be heard, the City Commission may take no action, suspend or condition the Extended Operating Hours License, as they deem appropriate. Suspensions shall range from one (1) day in length to a maximum of ninety (90) days. The maximum penalty for a first appearance by a licensee before the city commission shall be thirty (30) days, sixty (60) days for a second appearance, and ninety (90) days for all appearances thereafter. The City Commission shall base its decision on whether there is substantial, competent evidence presented that supports a finding of non-compliance with the criteria in subsection (E)1 above on three (3) or more occasions during any consecutive three-month period.

e. In the event that a licensee has made a third appearance before the City Commission for notices of violations under subsection (E)(2)(d) above and the City Manager determines that the licensee is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection (E)(1), he or she may place on the City Commission agenda the matter of revoking the Extended Operating Hours License. Such hearing shall be publicly advertised in a newspaper of local circulation; and further, written notice of the charges against the licensee shall be sent to him or her at least 14 days in advance and shall also contain the date, time and place of such hearing. Such notice shall also advise the licensee of the right to be heard, of the right to be represented by counsel, and the right to appeal to circuit court. After consideration of the matter and allowing the licensee to be heard, the City Commission may revoke, modify or condition the Extended Operating Hours License. The criteria to be used by the City Commission in such matters shall be the criteria specified in subsection (E)(1) above. Should the license or privilege be revoked, conditioned or modified, the licensee may seek review of such action before the City Commission after six months. The licensee may also appeal such action to the circuit court.

(F) Conspicuously *displayed.* The license shall be conspicuously displayed within ten feet of the main entrance to the establishment.

(G) License *transfer.* A license may be transferred to a new owner when there is a bona fide sale of the business, upon approval by the City Commission and payment of a transfer fee as set forth by resolution of the City Commission. The transferred license shall be subject to the conditions of the original approval. All applications for transfer of ownership or location shall be deemed initial applications. However, applications for transfer of ownership or locations shall be automatically approved for a temporary period of thirty-five (35) days from the date of either the initial opening of an establishment serving alcoholic beverages or date transfer of ownership or location occurs. At the end of the thirty-five (35) days proceeding, establishments shall be prohibited from serving alcoholic beverages except by permission of the City Commission.

Pompano Beach
Economic Development Council

Commission Chambers Conference Room
September 23rd, 2013
5:15 p.m.

MINUTES

A. Call to Order by Chairman of the Committee, Tom DiGiorgio at 5:15 PM.

B. Roll Call

Tom DiGiorgio, Jr.	Jack Rogerson	*Absent*
Whitney Metevia	Ted Perrella	Jay Ghanem
Roy Rogers	Jessie Walker	Linnell Jackson
Chris Metzger	Rob Wyre	Joe Usman
Frank H. Furman, Jr.	Al Siefert	Paul Webb
Dodie Keith-Lazowick	Ric Green	Elaine Fitzgerald

C. Executive Summary

MOTION by Roy Rogers and seconded by Dodie Keith-Lazowick for the Economic Development Council to recommend that the City Commission consider allowing for extended hours of operation for alcoholic related businesses.
All voted in favor with the exception of Frank Furman.

MOTION by Whitney Metevia and seconded by Al Siefert to form a subcommittee to further explore the local procurement preference idea with freedom to include City Staff and members of the public.
All voted in favor of the above motion.

D. Approval of Minutes

MOTION by Roy Rogers and seconded by Ric Green to approve the July 22, 2013 minutes. All voted in favor of the above motion.

E. Treasurer's Report

Mr. Clemens noted that the current bank balance is $2344.85.

F. CRA Update

Horacio Danovich reported that the Beach Library has passed DRC and is moving onto AAC and P&Z in October. The overall target for completion is set to be June of 2014. He reported that the Pier Comp Plan Amendment is moving forward; however the County is requiring the City to complete a traffic study to assess the impact that the proposal will have on Atlantic Boulevard. Mr. Danovich noted he felt it prudent to allocate the funding required to pay for this traffic study, would be better spent in different areas near the beach, specifically the crosswalk/intersection of A1A and NE 2nd Street.

Patrick Jovanov (411 NE 18th Avenue) noted that the timing of the traffic lights in the area is very unfriendly to pedestrian activity.

Mr. Danovich reported that in the NW CRA, the City Manager has approved funding for utilities that the CRA could previously not afford on their own. He further noted that the projected completion date for both Old Pompano and MLK Boulevard is summer of 2014.

Mr. Siefert questioned the status of the fire station on the beach. Mr. Danovich noted that there is a legal hang-up as there is an issue with the bonding of the site.

Mr. Walker questioned the activity that was occurring at the NW corner of MLK and Dixie. Mr. Danovich noted the site will include a mixed-use residential and commercial development that is slated to be a tax credit project however the developer has not submitted for consideration for the tax credits.

Mr. Danovich noted that the City Commission had approved the bonding for both the NW and East CRA's which will help to fund additional projects.

G. Presentations

- Wal-Mart BSRA- Justin Hofmeister

Justin Hofmeister (1 SE 3rd Avenue, Suite 2120, Miami FL) noted that since the EDC has agreed to serve as the Brownfield Advisory Committee, they were required to review presentations, notifying them of any potential brownfield development projects. He noted that upon selecting the site at 5001 N. Federal Highway for a future Wal-Mart Supercenter, it was determined that the site would be eligible for tax credits for cleanup, as it is currently contaminated.

Mr. Furman noted the Council should be told whether or not that site was partially contaminated or whether it would need to be completely excavated in order to diminish the contamination.

Mrs. Keith-Lazowick noted that the Council would need a better description of what they were voting on in order to make a motion, as they had not been provided the backup material ahead of time.

Ms. Metevia read the executive summary in the report provided by Mr. Hoffmeister which explained the history of the parcel and the discovered contamination.

Mr. DiGiorgio questioned if Mr. Hofmesiter wished for the Council to bring this item back at the next month's meeting with a decision, which was confirmed.

Mr. DiGiorgio asked the designated Brownfield Subcommittee, which is comprised of Paul Webb, Ted Perrella, Jay Ghanem, Dodie Keith-Lazowick, Whitney Metevia, and Chair of the Subcommittee Roy Rogers, to meet and go over the backup prior to the next meeting.

H. Old Business

- Extension of Hours of Alcohol Service – Michael Moskowitz

MOTION by Jack Rogerson and seconded by Roy Rogers to take the item of extension of hours of alcohol service off the table (the item had previously been tabled at the July 2013 meeting). All voted in favor of the above motion.

Michael Moskowitz (800 Corporate Drive, Suite 500, Fort Lauderdale FL) explained that Pompano Beach currently operates under the County-wide mandated allowance of operating alcoholic beverage establishments until 2 am. He noted that there is a mechanism for cities to apply to take advantage of extended hours of operating service which several other cities have already done. He noted that at the request of the Council, he had provided copies of ordinances from the cities of Coconut Creek, Hallandale, Hollywood, Margate, North Lauderdale, Sunrise and Pembroke Pines, related to extended alcohol service hours. He noted that while the Isle is permitted to operate 24 hours a day, that establishment is regulated by a State ordinance, which is not the same as the procedure he is currently conveying to the Council.

Mr. Green noted that three members of the Board of Directors of the Pompano Beach Chamber of Commerce had discussed this topic twice and recommended that it come before the Council for consideration.

Mr. Walker questioned if there is a set time that the businesses can operate until. Mr. Moskowitz noted that it would be up to the City Commission to determine that time, however most cities in Broward use 4 am as their cutoff time.

Mr. Siefert questioned if the City Commission would need to take this item to a referendum? Mr. Moskowitz noted that it had previously been taken to a referendum and that requirement was subsequently eliminated at that time.

Mr. Siefert questioned if there was any evidence of economic activity improving with the later hours in place? Mr. Moskowitz noted that work hours are rarely set between the hours of 9 am - 5 pm and as such there is opportunity for increased economic activity for those who may be getting off work later than most.

Mr. Metzger questioned what Mr. Moskowitz was proposing to change as far as the ordinance is concerned? Mr. Moskowitz confirmed it would be the extension from 2 am to whatever time is deemed appropriate by the City.

Vincente Thrower (1890 NW 6th Avenue, Pompano Beach FL) noted he felt that if this topic is going to be brought up again, it will take advantage of the taxpayers integrity and of their vote; as they only voted in the way they did to help the hotels and the casinos business. He noted that he wished for the Council to consider the people who live in the area, specifically the NW area, as they do not support this type of venture. Mr. Thrower questioned if the BSO would have to sign off on applications? This was confirmed by Mr. Moskowitz.

Mrs. Keith-Lozowick questioned if any other businesses are permitted to operate beyond 2 am besides the Isle? Mr. Moskowitz confirmed that only the Isle currently operates after 2 am. Mrs. Keith-Lazowick suggested limiting the types of businesses who would be able to apply for this type of privilege.

Mr. Jovanov noted that certain businesses, such as restaurants and hotels operating brunch on Sundays, should be permitted to take part in this type of opportunity. Mr. DiGiorgio noted that the Commission had previously approved Sunday alcohol sales, similar to what Mr. Jovanna had suggested. .

Mr. Walker wished to clarify that what was being proposed would be in addition to the existing law, that it must be approved by the City Commission and that the privilege could be revoked at any time.

Mr. Green noted that the Pompano Beach Chamber of Commerce wished for the EDC to make a recommendation to the City of Commission as they felt that they would have a better understanding of the benefit that this opportunity would have on businesses in the city.

Mr. Furman noted that once a city allows for extended hours of operation, it is very difficult to undo the act, in the event that, in doing so there is an undesirable response.

MOTION by Roy Rogers and seconded by Dodie Keith-Lazowick for the Economic Development Council to recommend that the City Commission consider allowing for extended hours of operation for alcoholic related businesses.

All agreed, under discussion, that the Commission would tailor the specific language to match the culture of Pompano Beach neighborhoods that would include incorporating safeguards that would allow for immediate revocation by the City Manager in the event that the business owner were to violate any condition of the license.

All voted in favor of the above motion, with the exception of Frank Furman.

- Local Preference – Dodie Keith-Lazowick

Mrs. Keith-Lazowick noted that the current Pompano Beach procurement process does not have a requirement for preference to be given for local coordination. She noted that Hallandale Beach has recently implemented a policy where for every million dollars proposed for CIP projects that the applicant must explain how they will work towards improving the community. She suggested that a subcommittee be formed to draft a potential ordinance similar to Hallandale's Beach for City Commission consideration.

Mr. Thrower noted that it seems like many City projects are being executed by firms outside of Pompano Beach; however, with the implementation of a policy similar to Hallandale Beach, the City would have a better chance of keeping business in Pompano Beach.

The Council determined that Mrs. Keith-Lazowick would serve as the Chair of the subcommittee, with the assistance of Ric Green from the Council. Additionally City Staff members Chris Clemens and General Services Director Leeta Hardin, and Vincente Thrower as a member of the public.

MOTION by Whitney Metevia and seconded by Al Siefert to form a subcommittee to further explore the local procurement preference idea with freedom to include City Staff and members of the public.
All voted in favor of the above motion.

I. Tourism Committee Update

Mr. Green noted that starting November 2nd the Chamber of Commerce would be open on Saturdays from 10 am to 3:00 pm.

Mr. DiGiorgio noted that in regard to sinking a boat for purposes of tourism that County Commissioner Chip LaMarca had suggested that Pompano Beach might wish to explore partnering with Lauderdale-by-the-Sea to share costs for the venture.

I. New Business

- Retreat discussion
  Mr. DiGiorgio noted he felt that the Council could get together for a retreat type of meeting in November to further discuss some pressing issues.

- Chris Metzger property – Open House (Thursday, 26th 11:30a–1:30p)
  Mr. Metzger noted that Weeks Robinson has extended an invitation to the EDC to attend the Open House of the newly completed warehouse facility at 1301 NW 12th Avenue.

- October Elections
  Ms. Metevia noted that notice of elections is required 7 days in advance of the October meeting.

Mr. Wyre noted that he had previously mentioned that the Council take action to find a person to fill in for Linnell Jackson as he is frequently absent from meeting. Ms. Eassa noted that the Clerk's Office has been in contact with Mr. Jackson and had informed the Vice-Mayor of the situation; however, the Clerk's office was still waiting to get a final letter of resignation from Mr. Jackson. Ms. Metevia noted that the October agenda should include that the Council will be voting to remove Mr. Jackson from office. Mr. Wyre wanted to clarify that this was not a personal attack against Mr. Jackson, but rather that the EDC is not given the benefit of input from District 5 which hinders the Council's ability to properly take the entire City's needs into consideration.

J. Staff Report

Mr. Clemens noted he had recently attended the American Planning Association Conference in Orlando, and that the Brownfield Incentive Committee had met and determined that the available tax credits from the Public Library cleanup would be liquidated.

J. Adjournment

There being no further business before the council, MOTION by Roy Rogers to adjourn the meeting. The meeting adjourned at 6:52 PM.

Next Meeting – 4th Monday of the Month

October 28th, 2013 @ 5:15 pm
Commission Chambers Conference Room
100 West Atlantic Blvd., Pompano Beach, FL

Chapter 3 - ALCOHOLIC BEVERAGES[1]

Footnotes:

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Cross reference— *Alcoholic beverages in parks, § 15-26.*

State Law reference— *Liquors and beverages, F.S. Ch. 561 et seq.*

Sec. 3-1. - Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages:

(1) "Alcoholic beverages" means distilled spirits and all beverages containing one-half of one (1) percent or more alcohol by volume.

(2) The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though the remainder ingredients were distilled water.

Bar means any place of business where wine, beer or alcoholic beverages are sold or offered for sale for consumption on-premises, and where the sale of food is incidental to the sale of such beverages, or where no food is sold. Any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale for consumption on premises of intoxicating liquors as a principal use. Establishments where beer, wine or both are permitted for consumption on premises as an incidental or accessory use are not considered a bar.

Beer means and shall include all malt beverages containing more than one-half (½) of one (1) percent of alcohol by weight but not over fourteen (14) percent by weight.

Consumption off the premises means the selling of beers, wines or alcoholic beverages in the originals, unbroken containers, to be taken by the purchaser off the premises where sold before being consumed.

Consumption on the premises means consumption of all beers, wines or alcoholic beverages of any kind, or the right to sell by the drink, bottle or can such beverages for consumption on the licensed premises only where purchased.

Full-course meals means [that] a bona fide full-course meal must consist of salad, entree, dessert, beverage, bread and butter, all prepared on the premises. Fast food, sandwiches, frozen foods or any other services not requiring the utilization of a full-time chef, are not considered full-course meals.

Intoxicating beverages and *intoxicating liquor* means only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

Liquor, distilled spirits, spirituous liquors, spirituous beverages, or *distilled spirituous liquors* mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

Package store means vendors licensed to sell all alcoholic beverages, but in sealed containers only, and for consumption off the premises. The sealed package must not be broken and the contents must not be consumed in or on the premises under a package store license.

Sale and *sell* mean any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the beverage law.

Vendor means and shall include all persons selling, keeping with the intention of selling or dealing in the beverages defined in this section.

Wine means:

(1) All beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.

(2) Fortified wine means all wines containing more than 17.259 percent of alcohol by volume.

(Ord. No. 109-84, § 1, 4-12-84; Ord. No. 129-91, § 1, 6-27-91)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, F.S. § 561.01.

Sec. 3-2. - Hours of sale.

(a) *On-premise* consumption. No licensee for consumption on the premises shall sell or offer for sale, deliver, service or permit to be consumed upon the premises of such licensee any beer, wines or alcoholic beverages of any kind, regardless of alcoholic content, on any day between the hours of 2:00 a.m. and 9:00 a.m., except as provided in subsection (c) below.

(b) *Off-premise consumption.* No licensee for consumption off the premises shall sell, offer for sale, deliver, service or permit to be consumed upon the premises of such vendor any beer, wines or alcoholic beverages of any kind, regardless of alcoholic content, Monday through Saturday between the hours of 12:00 midnight and 8:00 a.m., and on Sunday between the hours of 12:00 midnight and 9:00 a.m.

(c) *Consumption on premises in area of the regional activity center.* A licensee for consumption on premises within the area of the Regional Activity Center, commonly called "MainStreet" may apply for an extended hours license, which license shall allow the sale and consumption of alcoholic beverages from 7:00 a.m. to 6:00 a.m. of the following day, seven (7) days a week. In order to receive such a license, a licensee shall comply with the following conditions:

(1) The licensee's business shall be a restaurant in accordance with Florida Statute, § 561.20(2)(a)(4), and shall have two thousand five hundred (2,500) square feet of service area, and shall be equipped to serve one hundred fifty (150) persons full course meals at tables at one time, and derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages.

(2) A licensee shall complete an application form with the city, and submit it to the city with a fee of one thousand dollars ($1,000.00) for each license requested. The form shall state the licensee's name, business address, owner's name if different from the licensee, and the proposed hours of operation. The application shall include a statement that the licensee recognizes that the granting of an extended hours license is a privilege, not a right, and that failure of the licensee to strictly observe all of the conditions of the license shall be grounds for immediate revocation of such license. The application shall be notarized, and accompanied by a copy of the licensee's license from the State of Florida which allows the sale of alcohol on the premises.

(3) Said extended hours license application, when compete, shall be considered by the city commission. The city commission shall approve the application by motion, if the following conditions are met:

a. The licensee's business is within a totally enclosed building or structure, and noise that does not constitute a nuisance is not audible from outside the building.

b. Security staff sufficient to keep the public peace shall be employed by the licensee during the period of the extended hours.

c. Limited food service, which includes cold sandwiches and other food choices, shall be maintained during the period of the extended hours.

d. Liability Insurance in the amount of one million dollars ($1,000,000.00) per occurrence shall be maintained by the licensee.

e. Extended hours licenses shall expire on October 1st of each year and shall be renewable for one-year periods. The permit fee of one thousand dollars ($1,000.00) shall be payable at the renewal of the extended hours license each year. The city commission shall have the authority to approve renewals.

(4) Should the city manager find and determine that the licensee has violated any condition of the extended hours license, he may immediately revoke said extended hour license. The revocation of said license may be appealed to the city commission in writing, within thirty (30) days. The city commission shall schedule a hearing on the appeal within thirty (30) days of receipt of the appeal.

(Ord. No. 109-84, § 1, 4-12-84; Ord. No. 139-88, § 1, 9-8-88; Ord. No. 129-91, § 1, 6-27-91; Ord. No. 2007-002, § 1, 4-12-07; Ord. No. 2008-016, § 2, 4-10-08)

State Law reference— Authority to regulate hours of sale, F.S. §§ 562.14(1), 562.45(2).

Sec. 3-3. - Distance of establishments from places of worship or school.

(a) No person shall be permitted to sell any alcoholic beverage for consumption on the premises in any place of business located within five hundred (500) feet of an established place of worship or school, which distance shall be measured by the nearest pedestrian travel along public right-of-way from main entrance to main entrance, except that in case of a school, to the nearest point of the school grounds, used as part of the school facilities. This distance does not apply to establishments that are licensed for beer, wine, or beer and wine, only.

(b) No person shall be permitted to sell any alcoholic beverage for consumption off the premises, except sale of intoxicating beverages containing alcohol of fourteen (14) percent or less by weight for off-premises consumption only, in any place of business located within five hundred (500) feet of an established place of worship or school, which distance shall be measured by the pedestrian

travel on public right-of-way from main entrance to main entrance, except that in case of a school, to the nearest point of the school grounds used as part of the school facilities. This distance does not apply to establishments that are licensed for beer, wine, or beer and wine, only.

(c) (1) The five-hundred-foot distance requirement in subsection (a) may be reduced for any social or fraternal club, hotel, motel, restaurant, bowling alley serving alcoholic beverages, bar or other alcoholic beverage establishment and places of worship or school located within five hundred (500) feet which may not be required to protect the public health, safety and welfare, based on the following factors:

a. The actual location and distance of the club, hotel, motel, restaurant, bowling alley serving alcoholic beverages, bar or other alcoholic beverage establishment in relation to the place of worship or school;

b. The days and hours of operation of the club, hotel, motel, restaurant, bowling alley serving alcoholic beverages, bar or other alcoholic beverage establishment and of the places of worship or school;

c. The age group and number of persons attending the school and the nature and curriculum of the school;

d. The number of rooms in the hotel or motel; the nature and type of club; the type and size of the restaurant, including the restaurant floor space and seating capacity and whether full-course meals are served; the number of lanes in the bowling alley; the type and size of the bar, including the bar floor space and seating capacity;

e. Consideration of the public's convenience and necessity.

(2) The commission when considering the five (5) factors as set forth in (1) above shall grant those waiver requests which tend to most fully meet each of the individual requirements, i.e., the closer to five hundred (500) feet, the more likely the waiver.

(d) All establishments which are in existence as of the creation of this section which do not meet the distance requirements of this section shall nevertheless be permitted to continue until such time as the establishment's license expires or the business ceases to exist or continue in operation.

(Ord. No. 129-91, § 2, 6-27-91)

Sec. 3-4. - Penalty for violations.

(a) Any person, or any agent, servant or employee of any license hereunder violating the provisions of this chapter shall, upon conviction by a court of competent jurisdiction, or by the code enforcement board or other code enforcement system be punished in accordance with the laws of the city or state.

(b) Each day any violation of any provision of this chapter shall continue shall constitute a separate and distinct offense.

(Ord. No. 109-84, § 1, 4-12-84; Ord. No. 129-91, § 2, 6-27-91)

Editor's note— Section 2 of Ord. No. 129-91, adopted June 27, 1991, renumbered § 3-3 as § 3-4 and amended such provisions to read as herein set out.

Sec. 5-29. - Permitted hours of sale, consumption and service.

(a) *Permitted hours of sale, consumption and service.*

(1) Clubs, nightclubs, cocktail bars, hotel bars and restaurant bars licensed under the state beverage laws to sell beer, wine or alcoholic beverages may sell, serve or deliver or offer to sell, serve or deliver any beer, wine or alcoholic beverage, regardless of alcohol content, between the hours of 7:00 a.m. and 12:00 midnight as long as the beer, wine or alcoholic beverage is served and consumed on the premises.

(2) Convenience stores, bottle clubs, package stores, vendors licensed under the state beverage laws to sell beer, wine or alcoholic beverages and any vendor not listed in section (1) above may sell, serve or deliver or offer to sell, serve or deliver any beer, wine or alcoholic beverage, regardless of alcohol content, on any weekday or Saturday between the hours of 7:00 a.m. and 12:00 midnight, or any Sunday between 12:00 noon and 12:00 midnight.

(3) Any beer, wine or alcoholic beverage, regardless of content, ordered by a patron from a club, nightclub, cocktail bar, hotel bar, restaurant bar, convenience store, bottle club, package store or vendor and served prior to 12:00 midnight may be consumed on licensed premises by a patron until no later than 12:30 a.m.

(4) Sale, service or consumption after the applicable hours in this section are prohibited.

(b) *Permits required for premises to remain open past midnight; suspension of permits.*

(1) *Permits required.*

a. All vendors licensed under the state beverage laws desiring to remain open for business for the purposes of selling, offering for sale, delivering, serving or permitting consumption of alcoholic beverages between the hours of midnight and 2:00 a.m. on any weekday, and between midnight and 3:00 a.m. on Saturday and Sunday, shall make application with the business tax division for an extended hours of operation permit. For the fiscal year 2000/2001, vendors shall submit an application within thirty (30) days from the effective date of this ordinance.

(2) The application form shall be provided by the city. The vendor shall complete the application by providing the information requested about the vendor, including but not limited to the name and address where notices related to this section are to be mailed. Permit holders are required to amend the license application that is on file with the City of Fort Lauderdale within thirty (30) days of any change in the information set forth on the application form.

(3) The city manager or designee shall review the application and, if the application is complete, a permit shall be issued to the vendor to remain open between the hours of 12:01 a.m. and 2:00 a.m. on weekdays, or between 12:01 a.m. and 3:00 a.m. on Saturday and Sunday.

(4) Such permit must be renewed annually on or before the thirtieth day of September, unless the permit has been suspended by the City of Fort Lauderdale or the vendor's state beverage license has been revoked. In the event that there has been a change in ownership or a change in location of the establishment, the city must be notified immediately and a new application must be processed. Failure to renew the extended hours of operation permit shall be cause for the immediate suspension of extended hours privileges pursuant to subsection (7) below.

(5) No vendor may sell alcoholic beverages after 12:00 midnight unless it has received an

extended hours of operation permit from the city.

(6) The provisions of this section shall not impair or impact an establishment's right to remain open prior to 12:00 midnight.

(7) *Permit suspension.* The ability to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage beyond the hour of 12:00 midnight on any day of the week, is hereby declared to be and is a privilege subject to suspension by the city commission, and no person may reasonably rely on a continuation of that privilege. As a condition of the continuation of the privilege, vendors are required to take all necessary steps to minimize the negative impacts that their establishment may cause in nearby residential or commercial neighborhoods. The city commission shall consider the following in deciding whether to suspend or condition the privilege:

a. Whether there is adequate off-street parking in relation to the demands created during the extra hours of operation, with special regard to any adverse impact on adjacent residential areas of any illegal or hazardous parking that can be traced directly to a particular vendor. For the purposes of this section, sufficient evidence of an adverse impact on adjacent residential areas will exist upon verification by police or parking enforcement officials that more than ten (10) patrons of the vendor have parked illegally on public rights of way or property, or on private property upon receipt of a complaint by the property owner. This provision will only apply if the parking provided by the vendor is at maximum capacity at the time the illegal parking takes place, or is otherwise determined to be inadequate given the size of the crowds that the vendor draws;

b. Law enforcement activities on the vendor's property during the extra hours of operation, both outside and inside the permitted location, with particular emphasis on vandalism, and illegal activity of any kind by employees, or others associated with the establishment, including allowing underage drinking, violation of open container laws and loitering by intoxicated individuals. The city commission shall also consider whether the need for law enforcement involvement was the result of the establishment's failure or inability to maintain proper order and control during the extended business hours;

c. Complaints verified by the police, arising from adverse effects extra hours of operation have upon neighboring properties, including the effects of noise, parking, vandalism, generation of trash or garbage, loitering by intoxicated persons or exterior lighting on neighboring residential properties. It shall be a defense to the applicability of this section that the vendor has adequate security personnel and has implemented a policy requiring that security personnel patrol the premises and the property adjacent to the vendor, as well as all known parking lots that patrons use, to assure the orderly conduct of patrons as they arrive at the establishment or as they depart. Upon a showing of such security precautions, the vendor shall only be held accountable if the conduct complained of constitutes a violation by the vendor of any provision of the Fort Lauderdale Code of Ordinances, state or federal law.

d. Violations of the provisions of Article II, section 5-34 of the Fort Lauderdale Code of Ordinances (Hours music or disturbing noises prohibited).

e. Violations of the provisions of Article II, section 5-31 of the Fort Lauderdale Code of Ordinances (Permitting intoxicated person to loiter about premises).

f. Violations of the provisions of Article II, section 5-33 of the Fort Lauderdale Code of

Ordinances (Use of licensed premises for immoral or criminal purposes).

g. Failure to obtain an extended hours of operation permit, or failure to renew the permit as required by subsections (4) and (5) above.

h. Violations of Chapter 17, Noise Control, of the Fort Lauderdale Code of Ordinances.

i. Violations of laws relating to the maximum permissible occupancy of vendor.

j. Violation of any provisions of the Fort Lauderdale Code of Ordinances, state or federal law.

In order to invoke the enforcement provisions of this section, the activities described hereinabove must be directly traceable to the particular vendor against whom action is being taken, and also must be verified by police officers on the scene. Although not required, police officers may, at their discretion, issue recorded warnings that shall not be considered a notice of violation, to put the vendor on notice that a particular problem or problems must be addressed and could result in a notice of violation if not corrected.

(8) Notices of violation of this section shall be issued to any vendor that meets, or where applicable, fails to meet the criteria established in (7)a., b., c., d., e., f., g., h., i. or j. above. The notice of violation shall be left with the owner, proprietor, or highest ranking employee then on the premises. An additional copy of the notice will also be mailed via U.S. mail, certified, return receipt requested, to the vendor at the street address provided in the application. Proof of delivery by either of these two (2) methods (hand delivery or mail) shall be sufficient to establish receipt by the permit-holder. Notices sent by mail that are returned or not accepted for any reason shall be deemed proper notice of the violation, provided that the notice is sent to the person and address named on the application.

(9) Should three (3) notices of violation within any three (3) consecutive month period be issued to any vendor, the matter shall be placed on the city commission agenda to consider the vendor's extended hours permit.

a. Such agenda item shall be publicly advertised in a newspaper of general circulation at least fourteen (14) days prior to any hearing of the agenda item, and written notice of the charges against the vendor shall be provided at least fourteen (14) days in advance of the hearing. The notice shall also contain the date, time and place of the hearing. Such notice shall also advise the vendor of the right to be heard, of the right to be represented by counsel, of the right to present sworn testimony on the vendor's behalf, and the right to appeal to circuit court.

b. After consideration of the matter and allowing the vendor to be heard, the city commission may take no action, suspend or condition the extended hours privilege, as they deem appropriate. Suspensions shall range from one (1) day in length to a maximum of ninety (90) days. The maximum penalty for a first appearance by a vendor before the city commission shall be thirty (30) days, sixty (60) days for a second appearance, and ninety (90) days for all appearances thereafter. The city commission shall base its decision on whether there is substantial, competent evidence presented that supports a finding of non-compliance with the criteria in (7)a., b., c., d., e., f., g., h., i. or j. on three (3) or more occasions during any consecutive three-month period.

c.

The city commission may require, as a condition of the continuation of the privilege of extra hours of operation, compliance with any reasonable conditions determined to be necessary to mitigate or eliminate the adverse effects proven to the city commission of such extra hours. These conditions may include, without being limited to, provision by the owner or operator of the premises to provide, at the owner or operator's expense, additional off-street parking, security personnel, trash maintenance and screening and buffering from nearby properties.

d. The city commission may delegate the responsibility for conducting hearings pursuant to this section to a special magistrate. Any such delegation shall be by resolution.

(10) Any vendor that has had an extended hours of operation permit suspended or otherwise conditioned cannot avoid the consequences of the city commission's action by changing its name or corporate status. Upon a showing to the city commission that there has been a legitimate change in ownership at the location effected by the city commission's action(s), the city commission may consider allowing an extended hours of operation permit to issue at the site, subject to applicable conditions, if any, to prevent a recurrence of the harms that caused the earlier action.

(c) *Liquors, beers and wines, hours of sale.* No vendors licensed under the state beverage law to sell liquor, beer or wine by the package, bottle or original container, for consumption off premises, shall sell or offer for sale or deliver any liquor, beer or wine in the original package bottle or container for consumption off the premises during any hour prohibited by (a) above. Businesses covered by this section are also required to obtain an extended hours of operation permit, and are subject to all of the requirements of section (b).

(d) *Taking container off premises after hours.* It is the intention of this section to prohibit such vendors from permitting anyone purchasing package goods in the original container to leave the vendor's premises during the prohibited hours, taking with him in any container any beers, wines, liquors, or alcoholic beverages originally purchased by package, bottle or container, so that the same may be consumed off the premises.

(e) *Sales by employees during prohibited hours.* Any employee of a vendor licensed under the state beverage law shall not sell, or offer for sale, any beers, wines, liquors, or alcoholic beverages of any kind during the prohibited hours.

(f) *Gifts.* It shall be deemed a violation of this section for any person, or any agent, servant or employee of any person, licensed under the state beverage law, during the hours prohibited under (c) above, to gratuitously give any kind of alcoholic beverage, whether conditioned upon the purchase of another kind of alcoholic beverage, or product of any nature, at any inflated price, or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.

(g) The provisions of this section shall also apply to vendors within the special entertainment overlay district, except that the hours of operation allowable upon receipt of an extended hours of operation permit shall be those specified in section 5-56 of the Code of Ordinances of the City of Fort Lauderdale.

(Code 1953, § 5-10; Ord. No. C-73-11, § 1, 2-6-73; Ord. No. C-77-98, § 1, 7-20-77; Ord. No. C-81-88, § 1, 9-29-81; Ord. No. C-96-44, § 1, 10-1-96; Ord. No. C-00-38, § 1, 9-6-00; Ord. No. C-04-63, § 1, 12-21-04; Ord. No. C-06-45, § 1, 1-4-07; Ord. No. C-11-07, § 1, 2-15-11)

State Law reference— Regulation of hours of sales, F.S. § 562.14.

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§ 113.25 HOURS OF SALE, GENERALLY.

(A) No person or vendor, except those determined by the City Commission to comply with the requirements for an extended hours license pursuant to § 113.26, shall sell or offer for sale or deliver upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content, on any day of the week between the hours of 2:00 a.m. and 7:00 a.m. No person or vendor, except those determined by the City Commission to comply with the requirements for an extended hours license pursuant to § 113.26, shall permit to be consumed upon the premises of such person or vendor, any liquor, beer or wine, regardless of the alcoholic content, on any day of the week between the hours of 2:30 a.m. and 7:00 a.m. Notwithstanding the foregoing, no person or vendor shall be prohibited from selling or offering for sale or delivering any liquor, beer or wine, regardless of alcoholic content, on New Year's Day between the hours of 2:00 a.m. and 4:00 a.m., and no person or vendor shall be prohibited from permitting to be consumed upon the premises of such person or vendor, any liquor, beer or wine, regardless of the alcoholic content, on New Year's Day between the hours of 2:30 a.m. and 4:00 a.m., except insofar as such privilege may be suspended, terminated or conditioned pursuant to this section. The ability to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage beyond the hour of 12:00 midnight on any day of the week is hereby declared to be and is a privilege subject to suspension, termination, and the imposition of conditions as provided below, and no person may reasonably rely on a continuation of that privilege.

(1) No person, vendor or distributor or any place of business licensed under the provisions of this chapter or by this State, or any employee thereof, shall permit any person who is not a licensed vendor or employee thereof to remain on the licensed premises beyond the legally authorized closing hour. However, if said premises are divided so that the portion of said premises where alcoholic beverages are kept, stored or dispensed is segregated by partition and locked doors after the legal closing hour, such prohibition shall not apply.

(2) No person or vendor shall use a disc jockey to provide entertainment between 12:00 midnight and 2:00 a.m.

(3) If at any time, the Police Chief or his/her designee determines that any person or vendor is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in this section or § 113.26(B), the Police Chief or his/her designee may issue a notice of suspension or termination of the privilege of selling, offering for sale, delivering or permitting to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content, or a notice of imposition of additional conditions and/or restrictions upon the person or vendor ("the Notice"). In determining what action to take, the Police Chief or his/her designee may consider any prior sanctions imposed against the person or vendor pursuant to this section. Said notice shall be served upon the person or vendor by:

(a) Personal service upon the person or vendor;

(b) Certified mail delivered to the person or vendor; or

(c) Posting of the notice in a conspicuous place on the property on which the person or vendor sells, offers for sale, delivers or permits to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of alcoholic content.

The notice shall afford the person or vendor with reasonable notice of the facts or conduct which warrant the intended action, and shall advise the person or vendor of his/her right to a hearing under subsection (4) and, if applicable, subsection (5) below.

(4) The person or vendor may, within five business days of being served with the notice, make a written request for a hearing before the City Commission. Failure to timely request a hearing shall result in the imposition of the suspension, the termination, or the imposition of additional conditions and/or restrictions contained in the notice without further action by the city. Except as provided in subsection (5) below, if a hearing is requested, the notice of suspension, of termination, or the imposition of additional conditions and/or restrictions will not be enforced until the City Commission decision. A hearing shall be scheduled upon payment of the applicable fee as established by resolution of the City Commission. If a hearing is requested by the person or vendor, notice of the City Commission agenda item shall be publicly advertised in a newspaper of local circulation, and written notice of the date, time and place of the hearing will be sent to the person or vendor and to the owners of all properties located within 300 feet of the establishment at least 14 days in advance of the hearing date. At the hearing, the person or vendor and all other individuals wishing to speak will be afforded a reasonable opportunity to do so. The City Commission will consider the matter de novo, and will determine whether the person or vendor operated in a manner harmful to the public health, safety or welfare, based upon the criteria specified in this section and in § 113.26(B). If the City Commission so finds, it may suspend, terminate, or otherwise impose additional conditions and/or restrictions upon the person or vendor.

(5) If the Police Chief or his/her designee finds that immediate serious danger to the public health, safety or welfare requires emergency suspension, termination or the imposition of additional conditions or restrictions upon the person or vendor, he/she may summarily order said suspension or termination, or may summarily impose additional conditions or restrictions. The Police Chief or his/her designee will take only that action necessary to protect the public interest. The Police Chief or his/her designee will provide the person or vendor with all information required by subsection (3) above, and will additionally disclose the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and his/her reasons for concluding that the action taken is necessary to protect the public interest. The notice shall be served upon the person or vendor as required in subsection (3) above. The notice shall advise the person or vendor that he/she may request a hearing before the City Commission as provided in subsection (4) above. The notice shall also advise the person or vendor that he/she may request a hearing before the City Manager or his/her designee challenging the need for summary action (the "Emergency Hearing") by making a written request within five business days of being served with the notice. If the person or vendor requests an emergency hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the person or vendor and the City Manager or his/her designee. At the emergency hearing, the person or vendor will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that an immediate serious danger exists, the summary action of the Police Chief or his/her designee will continue in effect until the City Commission decision described in subsection (4) above is rendered. If the City Manager or his/her designee determines that an immediate serious danger does not exist, the summary action

of the Police Chief or his/her designee will not be enforced until the City Commission decision described in subsection (4) above is rendered.

(6) If so suspended, the privilege to continue the on-premise sale of alcoholic beverages between the hours of 12:00 a.m. and 2:00 a.m. and the on-premise consumption of alcoholic beverages between the hours of 12:00 a.m. and 2:30 a.m. shall not be reinstated until any applicable condition of the suspension is met and the payment of a reinstatement fee in an amount established by resolution of the City Commission is made.

(7) Any person, vendor or establishment whose privilege of on-premise sale of alcoholic beverages between the hours of 12:00 a.m. and 2:00 a.m. and on-premise consumption of alcoholic beverages between the hours of 12:00 a.m. and 2:30 a.m. is revoked shall not be eligible to request reconsideration of said privilege for six months from the effective date of the revocation.

(8) Should the privilege be terminated or conditioned, the person or vendor may seek review of such action before the City Commission after six months. Any such request for review shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission. The City Commission may then modify or refuse to modify its action. Only one such review shall be given within a 12-month period.

(B) No person, vendor or distributor shall sell, offer for sale or deliver any liquor, beer or wine, regardless of the alcoholic content, by package, bottle or container, for the purpose of consumption off the premises, on any day of the week between the hours of 12:00 midnight and 7:00 a.m.

('72 Code, § 3-2(1), (2)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-93-32, passed 7-21-93; Am. Ord. O-2005-14, passed 7-13-05; Am. Ord. O-2006-31, passed 9-6-06; Am. Ord. O-2007-24, passed 7-18-07) Penalty, see § 113.99

§ 113.26 EXTENDED HOURS LICENSE.

(A) (1) *Applicability and eligibility.* Except for those Live Entertainment Establishments as defined herein and located within the boundaries of the Downtown Music District as described in Exhibit "A" of Resolution No. R-95- 272A, and person or vendor operating as a restaurant bar or as a hotel or motel bar, as defined herein, and duly licensed by the State of Florida to sell and dispense alcoholic beverages for consumption on premises and by the city pursuant to Chapter 110 of the Code of Ordinances relating to local business tax receipts may apply for an extended hours license provided that such person or vendor has been operating as a restaurant bar or hotel or motel bar at the location that is the subject of the application for not less than six months prior to the date of application. Such license application shall be processed using the procedures and the criteria listed in this subsection and subsection (B) below. The fee for the issuance of said license shall be set by resolution of the City Commission. An extended hours license shall permit and extend the hours in which such licensee may remain open until 4:00 a.m. on any day; however, all such extended hours licenses are hereby declared to be and are regulatory in nature. An extended hours license may be valid for up to one year and shall expire on September 30 at midnight of each licensing year at which time all extended hours operations shall cease unless a new license is issued prior to the expiration of the previous license. Any person or vendor who

wishes to remain open until 4:00 a.m. to sell and dispense alcoholic beverages for consumption on premises must maintain and display a valid extended hours license.

(2) *Live Entertainment Establishments within Downtown Music District.* Any person or vendor operating a Live Entertainment Establishment within the Downtown Music District, as defined herein, and duly licensed by the State of Florida to sell and dispense alcoholic beverages for consumption on premises, has a local business tax receipt pursuant to Chapter 110 of the Code of Ordinances and a Certificate of Use, may apply for a Live Music Extended Hours License to the Department of Planning and Development Services. Such license application shall be processed using the procedures and the criteria listed in below. The fee for the issuance of the said license shall be set by resolution of the City Commission. A Live Music Extended Hours License shall permit and extend the hours in which the licensee may remain open until 4:00 a.m. on any day; however, all such Live Music Extended Hours Licenses are hereby declared to be and are regulatory in nature. A Live Music Extended Hours License may be valid for one (1) year and shall expire on September 30th at midnight of each license year at which time all extended operations shall cease until a new license is issued prior to the expiration of the previous license. Any Live Entertainment Establishment that wishes to remain open until 4:00 a.m. to sell and dispense alcoholic beverages for consumption on premises must maintain and display a valid Live Music Extended Hours License.

(a) *Application.* An application for a Live Music Extended Hours License shall be submitted, on a form furnished by the Department of Planning and Development Services, along with a nonrefundable application fee in an amount established by resolution of the City Commission. The application shall include the following:

1. A plan and/or sketch indicating the location of the Live Entertainment Establishment and the floor plan showing a floor area of not less than 1,000 square feet. The floor plan shall be an accurate representation of the plan approved by the City's Building and Fire Departments as part of the formal building process. Any changes to the floor plan since the original city approval shall be identified and include a notation identifying the date the modification was approved by the city, if such approval was required. The floor plan shall show all customer seating areas, performing stages or platforms, back-of-house areas, restroom facilities. The floor plan shall state the legal occupant load and all exiting systems of the premises shall be clearly shown. No floor plan change, occupant load change, or other change of use can be approved as part of the application process for a Live Music Extended Hours License.

2. A copy of the Live Entertainment Establishment's local business tax receipt and Certificate of Use.

3. A copy of the Live Entertainment Establishment's State of Florida alcoholic beverage license.

4. A security plan which should include, but is not limited to:

A. The number of security personnel who will be on duty during the extended hours of operation;

B. The minimum level of acceptable training for security personnel;

C. The patron screening procedure, if any, prior to admission to the Live Entertainment Establishment;

D. Identification of patron access points into the Live Entertainment Establishment;

E. Removal of disorderly or intoxicated patrons from premises; and

F. Dispersal of patrons from the Live Entertainment Establishment, on site parking area and/or public rights-of-way (e.g. sidewalk or street) within fifty feet of any entrance to the Live Entertainment Establishment.

5. A summary of the facts concerning the live entertainment including the proposed days and hours of operation, description of proposed entertainment, number of entertainers, and a copy of the food menu.

(b) *Review criteria.* An application for a Live Music Extended Hours License shall be submitted for review and comment to all appropriate departments and offices, including, but not limited to, the Executive Director of the CRA, the Fire Department, the Police Department and Building. Review of the application shall be based upon the following criteria:

1. Conformance with the use requirements as defined herein.

2. Ingress and egress to the Live Entertainment Establishment, with particular reference to safety and convenience, access in case of fire or catastrophe, and conform to all state and local regulations, including but not limited to applicable fire safety codes, for which the premises will be inspected.

3. Compliance by the Live Entertainment Establishment with the requirements of Florida Statutes, the Zoning and Land Development Regulations and the Code of Ordinances.

4. The adverse effects, if any, that the extended hours of operation or other applicable issues will have on neighboring properties, especially with respect to patron activities.

5. Establishment shall be wholly enclosed, soundproofed, air-conditioned, with all windows, door and other openings kept closed except for normal ingress and egress, such that noise and music emanating therefrom will not disturb surrounding properties between 10 p.m. and 4 a.m.

(c) *Approval.* An application which conforms to the review criteria may be approved for a Live Music Extended Hours License subject to the provisions of § 113.26(A)(2).

(d) *Denial.* An application which does not conform to the review criteria set forth herein shall be denied.

(e) Upon approval of an application for a Live Music Extended Hours License, the local business tax division of the Department of Financial Services and Information Technology, may issue the applicable Live Music Extended Hours License upon payment of the applicable fee as established by resolution of the City Commission. The fee for the issuance of a Live Music Extended Hours License to a Live Entertainment Establishment which first received approval of its application after March 31st and before October 1st shall be 50% of the Live Music Extended Hours License fee established by resolution of the City Commission.

(f) *Appeal of decision.* The Live Entertainment Establishment for which a Live Music Extended Hours License is requested may appeal to the City Commission, consistent with these provisions, any decision rendered by the City Manager of his/her designee denying such Live Music Extended Hours Permit License. Any such appeal shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission and required submittal documents. Said appeal must be made in writing to the Department of Planning and

Development Services within 21 days of the date of the notice of denial. Said appeal shall be noticed as required in Section 5.7 of the Zoning and Land Development Regulations.

(g) *Operation of Live Entertainment Establishment.*

1. Each Live Entertainment Establishment to which a Live Music Extended Hours License is granted shall open no later than 5 p.m. may remain open until 4 a.m. and is permitted to serve alcoholic beverages.

2. No Live Entertainment Establishment to which a Live Music Extended Hours License is granted shall permit any person under the age of 21 to enter or be present in such establishment between the hours of 2:00 a.m and 4:00 a.m., unless such person is accompanied by a parent or legal guardian.

3. Each Live Entertainment Establishment to which a Live Music Extended Hours License is granted must provide, at least 3 nights per week, floorshows or other forms of entertainment consisting of at least one performer playing musical instrumentation, amplified or non-amplified, and the performances shall be held for a duration of no less than 3 hours during the Live Entertainment Establishment's hours of operation.

4. All live entertainment shall be provided indoors with all doors and windows remaining closed during performances, with the exception of patron and staff ingress and egress, during the live entertainment performances.

(h) *Revocation of a Live Music Extended Hours License.* If the Police Chief or his/her designee determines that any licensee has violated the provisions herein or that such Live Entertainment Establishment is operating in a manner harmful to the public health, safety or welfare based upon the provisions set forth in § 113.26(A)(2), he/she may issue a notice of revocation upon the licensee. Said notice shall be served upon the licensee by: (1) personal service upon the permittee; (2) certified mail delivered to the permitee; or (3) posting of the notice in a conspicuous place on the property subject to the Live Music Extended Hours License.

The notice shall afford the licensee with reasonable notice of the facts or conduct which warrants the revocation, and shall advise the licensee of his/her rights to a hearing under § 113.25(D)(2), and, if applicable, § 113.26(D)(3).

(i) *Transferability.* A Live Music Extended Hours License shall not be transferable.

(B) *Application and review procedures.*

(1) *Application.* An application for an extended hours license shall be submitted, on a form furnished by the city, to the Department of Planning and Development Services, along with a nonrefundable application fee in an amount established by resolution of the City Commission.

(2) *Notice and response.* All owners of property located within 300 feet of the parcel for which a new extended hours license is requested shall be notified of the application and of their right to protest such request in writing within 21 calendar days of the mailing of such notice. The 7 ritten protest shall state the reasons for the protest.

(3) *Review criteria.* An application for an extended hours license shall be submitted for review, investigation and comment to all appropriate city departments and offices, including, but not limited to, the Office of Code Enforcement, the Fire Department, the Police Department and the Department of Planning and Development Services, for the following criteria:

(a) The amount and degree of law enforcement activities generated by the operation of any establishment both, outside and inside the particular location, with particular emphasis on the vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees, patrons or others associated with the establishment.

(b) The adverse effects, if any, that the extended hours of operation or other applicable issues will have on neighboring properties, especially with respect to patron activities and effects of noise, parking, and exterior lighting on nearby residential properties and the city's economic redevelopment efforts.

(c) Compliance by the business with the requirements of Florida Statutes, the Zoning and Land Development Regulations and the Code of Ordinances of the city.

(d) Conformance of the premises to applicable fire safety codes, for which the premises will be inspected.

(e) Establishment wholly enclosed, soundproofed,and air-conditioned, with all windows, doors and other openings kept closed, except for normal ingress and egress, such that noise and music emanating therefrom will not disturb surrounding properties between 2:00 a.m. and 4:00 a.m. officers thereof.

(f) Criminal background check of all applicants and/or corporate officers thereof.

(g) Conformance to the use requirements as defined herein.

(4) *Determination.* The City Manager or his/her designee shall make the determination, based on the criteria in this section, to approve, approve with conditions, or deny the request for an extended hours license. Additionally, in the event a written protest is received within 21 days of the date of mailing notice, as described in § 113.26(B)(2), from an owner of property located within 300 feet of the parcel for which an extended hours license is requested, the City Manager or his/her designee shall attempt to mediate the issues raised by the protest. If reasonable efforts to mediate such issues are unsuccessful, the City Manager or his/her designee shall approve, approve with conditions, or deny the extended hours license; provided that the applicant shall have the right to appeal any approval with conditions or denial to the City Commission pursuant to § 113.26(B)(5).

(a) *Approval.* An application which conforms to the review criteria may be approved for an extended hours license subject to the provisions of this section.

(b) *Conditional approval.* The City Manager or his/her designee may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed to be necessary to mitigate or eliminate the potential adverse effects of such extended hours. These conditions may include, without being limited to, provision by the owner or operator, at his/her expense, of additional off-street parking, security personnel and screening and buffering from nearby properties. The owner shall record in the Public Records of Broward County, Florida, a covenant running with the land which expressly sets forth any and all conditions required.

(c) *Denial.* An application which does not conform to the review criteria shall be denied pursuant to this section.

(d) Upon approval or conditional approval of an application for an extended hours license, the local business tax division of the Financial Services Department, may issue the applicable

license upon payment of the applicable fee as established by resolution of the City Commission. The fee for the issuance of an extended hours license to a business which first receives approval of its license application after March 31 and before October 1 shall be 50% of the license fee as established by resolution of the City Commission.

(5) *Appeal of decision.* The owner of a business for which an extended hours license is requested may appeal to the City Commission, consistent with these provisions, any decision rendered by the City Manager or his/her designee to approve with conditions or deny such license. Any such appeal shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission and required submittal documents. Said appeal must be made in writing to the Department of Planning and Development Services within 21 days of the date of notice of denial. Said appeal shall be noticed as required in Section 5.7 of the Zoning and Land Development Regulations.

(C) *Operation of establishment.*

(1) Each establishment to which an extended hours license is granted shall be open for business not less than five days per week between 5:00 p.m. and 10:00 p.m.

(2) No establishment to which an extended hours license is granted shall use a disc jockey to provide entertainment between 2:00 a.m. and 4:00 a.m.

(3) Each restaurant bar to which an extended hours license is granted shall be open for business as a restaurant bar not later than 5:00 p.m. the day immediately preceding any day on which it will serve alcoholic beverages between 2:00 a.m. and 4:00 a.m.

(4) No establishment to which an extended hours license is granted shall permit any person under the age of 21 to enter or be present in such establishment between the hours of 2:00 a.m. and 4:00 a.m., unless such person is accompanied at all times by a parent or legal guardian.

(D) *Revocation, suspension, or imposition of additional conditions and/or restrictions.*

(1) If the Police Chief or his/her designee determines that any licensee has either violated a condition of the extended hour license, or that the licensee is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in subsection (B) or subsection (C), he/she may issue a notice of suspension, of revocation, or a notice of imposition of additional conditions and/or restrictions upon the license or licensee ("the Notice"). In determining what action to take, the Police Chief or his/her designee may consider any prior sanctions imposed against the licensee pursuant to this section. Said notice shall be served upon the licensee by:

(a) Personal service upon the licensee;

(b) Certified mail delivered to the licensee; or

(c) Posting of the notice in a conspicuous place on the property subject to the license.

The notice shall afford the licensee with reasonable notice of the facts or conduct which warrant the intended action, and shall advise the licensee of his/her right to a hearing under subsection (2) and, if applicable, subsection (3) below.

(2) The licensee may, within five business days of being served with the notice, make a written request for a hearing before the City Commission. Failure to timely request a hearing shall result in the imposition of the suspension, the revocation, or the imposition of additional

conditions and/or restrictions contained in the notice without further action of the city. Except as provided in subsection (3) below, if a hearing is requested, the notice of suspension, of revocation or of the imposition of additional conditions and/or restrictions will not be enforced until the City Commission decision. A hearing shall be scheduled upon payment of the applicable fee as established by resolution of the City Commission. If a hearing is requested by the licensee, notice of the City Commission agenda item shall be publicly advertised in a newspaper of local circulation, and written notice of the date, time and place of the hearing will be sent to the licensee and to the owners of all properties located within 300 feet of the establishment at least 14 days in advance of the hearing date. At the hearing, the licensee and all other individuals wishing to speak will be afforded a reasonable opportunity to do so. The City Commission will consider the matter de novo, and will determine whether the licensee violated a condition of the license or whether the licensee is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection (B), as appropriate. If the City Commission so finds, it may suspend, revoke, or otherwise impose additional conditions and/or restrictions upon the license or licensee.

(3) If the Police Chief or his/her designee finds that immediate serious danger to the public health, safety or welfare requires emergency suspension, revocation or the imposition of additional conditions or restrictions upon the license, he/she may summarily order said suspension or revocation, or may summarily impose additional conditions or restrictions. The Police Chief or his/her designee will take only that action necessary to protect the public interest. The Police Chief or his/her designee will provide the licensee with all the information required by subsection (1) above, and will additionally disclose the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and his/her reasons for concluding that the action taken is necessary to protect the public interest. The notice shall be served upon the licensee as required in subsection (1) above. The notice shall advise the licensee that he/she may request a hearing before the City Commission as provided in subsection (2) above. The notice shall also advise the licensee that he/she may request a hearing before the City Manager or his/her designee challenging the need for summary action, (the "Emergency Hearing") by making a written request within five business days of being served with the notice. If the licensee requests an emergency hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the licensee and the City Manager or his/her designee. At the emergency hearing, the licensee will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that an immediate serious danger exists, the summary action of the Police Chief or his/her designee will continue in effect until the City Commission decision described in subsection (2) above is rendered. If the City Manager or his/her designee determines that an immediate serious danger does not exist, the summary action of the Police Chief or his/her designee will not be enforced until the City Commission decision described in subsection (2) above is rendered.

(4) No suspended extended hours license shall be reinstated until any applicable condition of the license or condition of the suspension is met and the payment of a reinstatement fee in an amount established by resolution of the City Commission is made.

(E) Any person, vendor or establishment whose application for an extended hours license was denied or whose extended hours license was revoked shall not be eligible to apply for said license for 6 months from the effective date of the revocation or denial.

(F) *Transferability.* An extended hours license shall not be transferable.

(G) *Legislative review.* This section shall stand repealed on October 1, 2014, unless reviewed and saved from repeal through reenactment by the City Commission.

(H) *Temporary extension of hours waiver.*

(1) There is hereby granted a waiver temporarily permitting establishments duly licensed by the State of Florida for on-premise sale and consumption of alcohol, the privilege to extend such operations until 4:00 a.m. for the period of time ending February 10, 2010.

(2) All such permission extended to those establishments duly licensed by the State of Florida for on-premise sale and consumption of alcohol by way of the temporary extended hours waiver shall constitute a privilege subject to revocation in the manner provided in division (5) below.

(3) No establishment that takes advantage of the temporary extended hours waiver shall use a disc jockey to provide entertainment between 2:00 a.m. and 4:00 a.m.

(4) Each establishment with an active extended hours license shall receive a discount of $11 towards its license for the following licensing year for each day the temporary extended hours waiver is in effect.

(5) If at any time, the Police Chief or his/her designee determines that any person or vendor subject to the temporary extended hours waiver is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in this section, the Police Chief or his/her designee may issue a notice summarily terminating the privilege extended by the city for selling, offering for sale, delivering or permitting to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content during said extension. The notice shall be served upon the person or vendor by:

(a) Personal service upon the person or vendor; and/or

(b) Posting of the notice in a conspicuous place on the property on which the person or vendor sells, offers for sale, delivers or permits to be consumed upon the premises of such person or vendor any liquor, beer or wine.

The notice shall advise the person or vendor that he/she may request a hearing before the City Manager or his/her designee challenging the action of the Police Chief or his/her designee by making a written request within five business days of being served with the notice. If the person or vendor requests a hearing in a timely hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the person or vendor and the City Manager or his/her designee. At the hearing, the person or vendor will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that the action of the Police Chief or his/her designee is justified, such action will continue in effect until the end of the temporary extended hours waiver. If the City Manager or his/her designed determines that the action of the Police Chief or his/her designee is not justified, the City Manager or his/her designee will reverse the action of the Police Chief or his/her designee, which will have no further force and effect.

('72 Code, § 3-2(3)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-97-08, passed 4-23-97; Am. Ord. O-2001-19, passed 5-16-01; Am. Ord. O-2005-14, passed 7-13-05; Am. Ord. O-2006-31, passed 9-6-06; Am. Ord. O-2007-07, passed 4-18-07; Am. Ord. O-2007-

24, passed 7-18-07; Am. Ord. O-2009-07, passed 5-6-09; Am. Ord. O-2010-03, passed 2-3-10; Am. Ord. O-2011-15, passed 5-4-11; Am. Ord. O-2012-09, passed 5-2-12) Penalty, see § 113.99

Chapter 3 - ALCOHOLIC BEVERAGES
FOOTNOTE(S):

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Editor's note—Ord. No. O-76-16, adopted June 16, 1976, enacted provisions which are codified herein as superseding former Ch. 3, §§ 3-1—3-56. Former Ch. 3, pertaining to the same subject matter, was derived from Code 1960, §§ 3-1—3-25; Ord. No. 599, § 2, adopted Aug. 1, 1973; Ord. No. 74-4, adopted April 3, 1974; and Ord. No. O-75-11, § 1, adopted Nov. 5, 1975.

Charter reference— Authority to regulate selling and dispensing of alcoholic beverages, Art. I, § 14(d).

Cross reference— Disorderly intoxication, § 8-29.

State Law reference— Beverage law, Ch. 561, et seq., Fla. Stats.

Sec. 3-23. - Permits required for premises to remain open past midnight; revocation, suspension of state beverage license.

(a) *Permits required.*

(1) All vendors who are licensed by the state division of beverage desiring to remain open for business for the purposes of selling, offering for sale, delivery, serving or permitting liquors, beers or wines of any alcoholic content between the hours of midnight and 2:00 a.m. on weekdays and midnight and 3:00 a.m. on Sundays shall make application with the city manager for an open past midnight permit, at such time as the vendor applies for an occupational license pursuant to Chapter 7, Article II, of the Code of Ordinances.

(2) The open past midnight permit application shall be on forms provided by the city and shall contain the following:

a. The name of applicant;

b. The location where the business is to be conducted;

c. The names of the individuals operating the business under their own names or under a trade name;

d. The names and addresses of the officers and all persons having a financial interest of five (5) percent or more in the vendor;

e. Photocopies of the state application for the state beverage license and said license;

f. The applicant's current City of Oakland Park occupational license number;

g. An application fee in accordance with the following schedule:

Nonprofit fraternal, civil organization $1,500.00

Vendors licensed for off-premises consumption only 2,000.00

Restaurants, restaurant bars, hotel and motel bars 2,000.00

Bars 2,000.00

(3)

The city manager or his designee shall review the open past midnight permit application and, if the application is complete, a permit shall be issued to the vendor to remain open between the hours of 12:01 a.m. and 2:00 a.m. on weekdays and 12:01 a.m. and 3:00 a.m. on Sundays.

(4) Such open past midnight permit shall be renewed annually on or before the thirtieth day of September, unless it is suspended or revoked or unless there is a change in ownership, change in ownership of shares or change in location.

(5) The open past midnight permit application fee for such permit issued on or after the first day of April shall be one-half (½) the rate in accordance with the appropriate fee schedules.

(6) In order for an alcoholic beverage establishment to be eligible for an open past midnight permit, the privilege to sell, offer for sale, deliver, serve or permit liquors, beers or wines of any alcoholic content between the hours of midnight and 2:00 a.m. on weekdays and midnight and 3:00 a.m. on Sundays shall be granted by the city manager if an establishment and their employees participate in a state-accepted personal alcoholic beverage seller/server's education, training and certification program as described in section 3-32.

(7) No person shall work as a manager, alcoholic beverage seller/server, store clerk, and/or in any other capacity in any alcoholic beverage establishment open past midnight until certification by all applicants of a state-accepted personal alcoholic beverage seller/server's education, training and certification class/course and/or program is obtained, provided to the city and a open past midnight permit is granted by the city manager.

(b) *Permit revocation, suspension.* The ability to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage beyond the hour of 12:00 midnight on any day of the week including Sunday, is hereby declared to be and is a privilege subject to termination by the city commission, and no person may reasonably rely on a continuation of that privilege.

(1) If at any time the city manager determines that any person, vendor, distributor, or any place of business is operating in any manner harmful to the public health, safety or welfare, or has been convicted of a violation of the laws of the United States, state of Florida, and Code of Ordinances of the City of Oakland Park, by the permittee or his or its agents, servants, or employees on the license premises or elsewhere while in the scope of employment or has had his state beverage license revoked or suspended by the division of alcoholic beverages of the department of business regulation or has violated a rule or regulation promulgated by the Florida division of beverage, he shall place on the city commission agenda the matter of revoking the above privilege.

(2) Such agenda item shall be publicly advertised in a newspaper of general circulation and written notice of the charges against the person, permittee, vendor, distributor or place of business shall be sent to him at least fourteen (14) days in advance and shall also contain the date, time and place of such agenda item. Said notice shall also advise the person of his right to be heard, of his right to be represented by counsel, of his right to present sworn testimony and evidence on his behalf, and his right of appeal to circuit court if necessary.

(3) After consideration of the matter and allowing the person to be heard, the city commission may revoke or condition the privilege. The criteria to be used by the city manager and city commission shall be the criteria specified in subparagraphs (3)(a), (b), (c), (d) and (e) below:

(a) The amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to the adverse impact on adjacent residential areas of any illegal or hazardous parking.

(b) The amount and degree of law enforcement activities generated by the extra hours of operation, both outside and inside the particular location, with particular emphasis on the vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees, patrons or others associated with the establishment during or immediately after the extra hours of operation.

(c) The adverse effects, if any, that the extra hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or exterior lighting on nearby residential properties.

(d) Such licenses shall only be granted to those establishments which are wholly enclosed, soundproofed, and air-conditioned, and any windows, doors or other opening kept closed, except for normal and emergency ingress and egress, in order that noise and music emanating there from will not disturb the peace and quiet of the neighborhood; provided, however, that the city commission may, in its discretion, grant an extra hours license to an establishment that is not wholly enclosed, soundproofed and air-conditioned, upon a showing that said establishment does not disturb the peace and quiet of the surrounding neighborhood.

(e) The city commission may require, as a condition of the privilege of extra hours of operation, compliance with any reasonable conditions deemed by the commission to be necessary to mitigate or eliminate the adverse effects of such extra hours. These conditions may include, without being limited to, provision by the owner or operator of the premises to provide, at his expense, additional off-street parking, security personnel and screening and buffering from nearby properties.

(f) Should the permit be revoked or conditioned, the person, permittee, vendor, distributor or place of business may seek review of such action before the city commission after three (3) months. The commission may then modify or refuse to modify its action. Only one (1) such review shall be given within a twelve-month period.

(Ord. No. O-77-19, 9-21-77; Ord. No. O-81-22, § 4, 11-18-81; Ord. No. O-84-8, § 1, 3-7-84; Ord. No. O-84-22, §§ 1, 3, 9-19-84; Ord. No. O-88-28, § 1, 9-21-88; Ord. No. O-2009-001, § 3, 2-4-09)

Editor's note— Ord. No. O-77-19, adopted Sept. 21, 1977, amended the provisions codified as § 3-23 to read as herein set out. Prior to said Ord. No. O-77-19, § 3-23, pertained to hours when sales prohibited and premises to be closed and was derived from Ord. No. O-76-16, adopted June 16, 1976. See § 3-28.

ARTICLE III. - RESERVED
FOOTNOTE(S):

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Editor's note—Ord. No. O-81-22, § 6, adopted Nov. 18, 1981, repealed former Art. III of Ch. 3 which consisted of §§ 3-38—3-53, pertained to nightclubs and show clubs and was derived from Ord. No. O-76-16, adopted June 16, 1976; Ord. No. O-77-19, §§ 3—8, adopted Sept. 21, 1977; and Ord. No. O-79-29, §§ 3—6, adopted Nov. 7, 1979.

ARTICLE II. - EXTENDED HOURS LICENSE PROCEDURE
FOOTNOTE(S):

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Editor's note—Ord. No. 153-08-A, § 4, adopted January 22, 2008, added Article II title, "Extended Hours License Procedure."

Sec. 3-9. - Extended hours license procedure.

(a) *Extended hours license procedure.* Any establishment holding a license duly granted by the State of Florida to sell and dispense alcoholic beverages for consumption on the premises may apply for an extended hours license. Such application shall be processed using the procedures and criteria listed in this chapter. In the event that an establishment is under contract for sale, the current owner and the owner under contract may submit a joint application for an extended hours license. In the event an establishment wants to apply for an extended hours license before it has received a license duly granted by the State of Florida to sell and dispense alcoholic beverages for consumption on the premises, the establishment may apply for contingent approval of an extended hours license. The fee for the issuance of the extended hours license shall be set by resolution of the city commission, and shall be paid prior to issuance of the license and prior to renewal of an extended hours license thereafter. For establishments located outside the entertainment district, an extended hours license shall permit and extend the hours in which such a licensee may remain open for sale, service of and consumption of alcoholic beverages on the premises until 2:00 a.m. the following morning Sunday through Thursday, and until 3:00 a.m. on the following morning Friday and Saturday. An extended hours license granted to a duly licensed establishment within the entertainment district shall permit and extend the hours in which such a licensee may remain open for sale, service of and consumption of alcoholic beverages on the premises until 3:00 a.m. the following morning Sunday through Thursday, and until 4:00 a.m. on the following morning Friday and Saturday. An extended hours license approved after June 1, 2012 shall permit and extend the hours in which a licensee may remain open for sale, service of and consumption of alcoholic beverages on the premises until 3:00 a.m. the following morning Sunday through Thursday, and until 4:00 a.m. on the following morning Friday and Saturday. Extended hours licenses are a privilege granted by the city commission, and are declared to be and are regulatory in nature, and revocable pursuant to the procedure set forth in this chapter.

(b) *Revocation of existing extended hours licenses and approvals, and establishment of extended hours licensing procedure.* The ability to sell, offer for sale, deliver, or permit to be consumed upon the premises any alcoholic beverage beyond the hour of 1:00 a.m. on any day of the week is hereby declared to be and is a privilege subject to suspension, termination, and the imposition of conditions as provided below, and no person may reasonably rely upon the continuation of that privilege. Any person or vendor who wishes to remain open beyond 1:00 a.m. to sell and dispense alcoholic beverages for consumption on premises on any day after June 1, 2009, including any person or vendor to whom an authorization or approval for extended hours of sale, service, or consumption has previously been granted by the city, shall be required to make an application and receive approval for an extended hours license. These regulations shall become effective on June 1, 2009.

(c) *De minimis impacts.* Establishments that have a maximum capacity set by the building and fire officials of fifty (50) or fewer persons, shall be exempt from this section and shall not be required to obtain an extended hours license to remain open beyond 1:00 a.m. The city commission, after notice and a public hearing, reserves the right to impose the extended hours license requirements on any establishment of fifty (50) or fewer persons, if the police chief, or his/her designee, determines that the operation of the establishment, after 1:00 a.m. diverts the police or fire departments from their primary missions.

(Ord. No. 153-08-A, § 3, 1-22-08; Ord. No. 153-08-D, § 1, 10-14-08; Ord. No. 153-09-A, § 2, 1-24-09; Ord. No. 153-11-A, § 2, 4-26-11; Ord. No. 153-12-B, § 2, 4-24-12; Ord. No. 153-13-A, § 2, 4-23-13)

Sec. 3-10. - Application and review procedures for extended hours licenses.

(a) *Application.* An application for an extended hours license shall be submitted, on a form furnished by the city, to the director of community development or his/her designee, along with a nonrefundable application fee. The amount of the application fee shall be established, on a sliding scale based on gross building size (square feet), by resolution of the city commission.

(b) *Notice.* All owners of property located within five hundred (500) feet of the parcel for which a new extended hours license is requested shall be notified of the application. In the event a multifamily residential condominium structure is located within five hundred (500) feet of the parcel, the applicant may notice the condominium association instead of each individual unit owner. The letter of notification will set forth a description of the request and a date, time and place of the public hearing before the city commission. Letters will be mailed to said property owners by first class mail, by the staff using a certified list provided by the applicant. The required notification shall be post marked at least fifteen (15) days prior to the public hearing dates at which the application will be heard before the city commission. Staff is authorized to charge the applicant a reasonable fee for the city's cost of preparing and mailing notices.

(c) *Determination.* The city commission shall approve, approve with conditions, provide contingent approval, or deny the request for an extended hours license in accordance with the procedures of section 3-11 of this chapter.

(1) *Public hearing.* The city commission, in accordance with the procedures of this chapter, shall conduct a public hearing on the application for an extended hours license, during which staff and the licensee may address the city commission. All other individuals wishing to speak will be afforded three (3) minutes to do so.

a. *Approval.* The city commission may approve an application for an extended hours license upon a determination that the subject application is consistent with the health, safety, and welfare of the city.

b. *Conditional approval.* The city commission may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable condition deemed to be necessary to mitigate or eliminate the potential adverse effects of such extended hours of operation, in addition to the conditions provided in section 3-11(a). These conditions may include, without being limited to, provision by the owner or operator, at his/her expense, of measures designed for security, crowd control, and noise attenuation, and other assurances designed to mitigate the effects of the extended hours of operation.

c. *Contingent approval.* The city commission may provide contingent approval of an extended hours application when the applicant has applied for an extended hours license prior to obtaining a license duly granted by the State of Florida to sell and dispense alcoholic

beverages for consumption on premises. The city commission may require, as a condition of contingent approval compliance with any reasonable condition deemed to be necessary to mitigate or eliminate the potential adverse effects of such extended hours of operation, in addition to the conditions provided in section 3-11(a). These conditions may include, without being limited to, provision by the owner or operator, at his/her expense, of measures designed for security, crowd control, and noise attenuation, and other assurances designed to mitigate the effects of the extended hours of operation. Contingent approval will be valid for a period of up to one (1) year and will allow the director of community development to issue an extended hours license within the one (1) year contingent approval period when the applicant demonstrates compliance with section 3-11 and any conditions imposed by the city commission. Contingent approval does not authorize the applicant to operate with extended hours until the extended hours license is issued. When an establishment obtains an extended hours license by contingent approval, the initial renewal will be within six (6) months from the date of issuance and subsequent renewals will be annually from the date of the first renewal.

d. *Denial.* An application which is determined by the city commission to be inconsistent with the public health, safety, and welfare shall be denied. Any applicant who makes an application which is denied shall be precluded from making another application for one hundred eighty (180) days from the date of such denial.

(Ord. No. 153-08-A, § 3, 1-22-08; Ord. No. 153-09-A, § 3, 1-24-09; Ord. No. 153-10-A, § 2, 1-26-10; Ord. No. 153-11-A, § 3, 4-26-11; Ord. No. 153-12-B, § 3, 4-24-12; Ord. No. 153-13-A, § 3, 4-23-13)

Sec. 3-11. - Review criteria for extended hours licenses.

(a) *Review criteria.* An application for an extended hours license shall be submitted for review by the development review committee based on the criteria of this subsection and consistency of the application with the public health, safety, and welfare of the city. The development review committee shall review the application and make recommendation to the director of community development, who shall prepare a report to the city commission recommending approval, approval with conditions, contingent approval, or denial, based upon the following criteria:

(1) The amount and degree of law enforcement activities generated by the operation of such establishment; by previous establishments in the same location; or at any establishment involving the same owner or managers, as defined in section 3-8, or any other person with a proprietary interest in the establishment. Consideration will be given as to whether the calls are initiated by the establishment and what efforts have been taken to reduce or prevent unlawful activity at establishments owned or managed by the applicant.

(2) A criminal background check of all owners or managers, as defined in section 3-8, or any other party with a proprietary interest in the establishment, shall be conducted in order to provide assurances that such persons have not been convicted of criminal offenses;

(3) The adverse effects of the extended hours of operation shall not place an undue burden on the neighborhood in proximity to the establishment, especially with respect to patron activities and effects of noise, parking, and vehicular use;

(4) The proposed extended hours of operation must be compatible with the existing uses in the neighborhood in proximity to the establishment;

(5) During all hours of operation the establishment shall comply with the following conditions:

a. A security camera system capable of recording and retrieving video images to assist in offender identification and apprehension shall be provided. The system must capture entrances and exits, cash register and parking lot. Camera must be activated and recording video during all hours of operation.

b. The establishment shall post exterior warning signage stating that loitering is prohibited and shall participate in the City of Sunrise No Trespassing Program.

c. Any applicant for an extended hours license must comply with Florida's Responsible Vendor Act as set forth in F.S. §§ 561.701 through 561.706, and must submit proof that each of its employees has completed a course of instruction dealing with alcoholic beverages, and must continue to be a member in the responsible vendor program as a condition of maintaining an extended hours license. Those applicants seeking contingent approval must become members of the State of Florida Responsible Vendor Program prior to the extended hours license being issued.

d. The licensee or applicant with contingent approval shall not relinquish control of the operation or management of the establishment to any other person or entity.

e. The establishment shall demonstrate that it offers free taxicab service or free towing to intoxicated patrons. The establishment shall display signage on the premises to notify patrons of the availability of the taxi service or towing program. Such signage shall be a minimum of thirty-six (36) inches by thirty-six (36) inches and shall be visible from all areas in which alcoholic beverages are served and consumed.

f. The establishment shall permanently display at all entrances a city provided sign indicating the maximum capacity (persons) for the establishment, as set by the building and fire officials through fire, building, structure, and other relevant regulatory considerations.

g. The establishment meets all of the requirements of local, state, and federal law and provides all associated licenses in order to serve, sell or allow the consumption of alcohol on the premises.

h. During extended hours operation, the applicant shall, at its expense, provide the required minimum number of off-duty police officers for a minimum of four (4) hours, licensed Florida security guards, or a combination thereof, as determined and for the period of time approved by the chief of police or his designee. The chief of police or his designee may periodically review and adjust its recommendation as to the required staffing and minimum required hours for off-duty police or security officers, based on the availability of off-duty police officers and current security conditions at the establishment and within its vicinity.

(6) The applicant shall demonstrate compliance and assurance of continued compliance with the conditions of approval, as may be imposed by the city commission based on the evidence presented at the public hearing, including the report of the director of community development. The city commission shall consider whether or not, in light of the size of an applicant's establishment, its operational history, or any other relevant factor, any of the following conditions should be included in the approval of the extended hours license:

a. The applicant shall provide adequate buffering of noise impacts from open-air restaurant areas, if any, and assure compliance with approved site plan conditions regarding ingress and egress of vehicle and pedestrian traffic;

b. Whether any additional security provisions should be required.

c. The applicant shall demonstrate that a minimum of forty (40) percent of the gross sales of each establishment applying for an extended-hours license shall be derived from the sale of food. Full course meals shall be served during all business hours and in accordance with the provisions below:

1. The establishment shall have a food service area occupying one thousand five hundred (1,500) or more square feet of contiguous floor space, excluding kitchens, food service areas, pantries, storage rooms, offices, bathrooms (used exclusively by employees of the restaurant), and any space contained in the outdoor areas adjacent to the premises; and

2. The establishment has accommodations for the service and seating at tables of seventy (70) or more patrons at one (1) time, exclusive of seating at bars or counters used primarily to serve alcoholic beverages. The tables and seating must be located within the floor space provided in this section, and which must be of adequate size to accommodate the service of full course meals to the number of persons that could be seated at the table; and

3. The establishment has a full service kitchen for the service of at least seventy (70) full course meals on the premises at one (1) time; and

4. The establishment meets all of the requirements of local, state, and federal law in order to store, prepare, serve, sell or allow the consumption of food on the premises.

(7) An establishment granted an extended hours license which allows operation until 3:00 a.m. the following morning Sunday through Thursday and until 4:00 a.m. the following morning on Fridays and Saturdays, shall conduct a "last call" for service of alcoholic beverages, requiring the establishment to cease the sale and service of alcoholic beverages at 2:45 a.m. the following morning Sunday through Thursday, and at 3:45 a.m. on the following morning Friday and Saturday.

(Ord. No. 153-08-A, § 3, 1-22-08; Ord. No. 153-09-A, § 4, 1-24-09; Ord. No. 153-11-A, § 4, 4-26-11; Ord. No. 153-12-B, § 4, 4-24-12; Ord. No. 153-13-A, § 4, 4-23-13)

Sec. 3-12. - Issuance, revocation, and renewal of extended hours license.

(a) *Approval and issuance.* Following consideration of the extended hours license by the development review committee, the committee shall forward its recommendation for approval, denial, contingent approval or conditional approval of the license to the director of community development or his/her designee. Upon approval or conditional approval of an application for an extended hours license by the city commission based on the criteria of section 3-11(a), the extended hours license shall be issued. After the city commission provides contingent approval of an application for an extended hours license, the director of community development may issue the extended hours license for an initial period of six (6) months provided the police chief, fire chief and director of community development have determined that all conditions for issuance have been met. The extended hours must be renewed annually thereafter. Payment of the renewal fee shall be required upon each renewal of an extended hours license.

(b) *Revocation, suspension, or imposition of additional conditions and/or restrictions.*

(1)

If, at any time, the director of community development or his/her designee determines that any extended hours license holder has failed to comply with any applicable condition of its license, or is operating in a manner harmful to the public health, safety or welfare he/she may place on the city commission public hearing agenda an item to determine whether the extended hours license should be revoked based upon the failure to meet the following criteria. The director of community development or his/her designee shall prepare a report which provides an analysis of the following:

a. During the extended hours of operation, the extended hours license holder shall comply with all conditions imposed at the time of license issuance;

b. During the extended hours of operation, the extended hours license holder shall take all reasonable precautions to discourage unlawful activity, including vandalism, crimes against property or persons, disturbances, loitering of patrons, narcotics use or distribution, excessive noise, vehicular use by intoxicated patrons, and illegal activity of any kind by employees, patrons or others associated with the establishment; and

c. During the extended hours of operation, the extended hours license holder shall take all reasonable efforts to prevent nuisances both inside and outside the establishment.

d. During the hours of operation, the extended hours license holder shall not exceed the number of occupants set by the city building and fire officials as the maximum capacity (persons) for the establishment.

(2) *Emergency public hearing on suspension or imposition of conditions.* If the police chief or his/her designee finds that an immediate serious danger to the public health, safety or welfare requires emergency suspension or the immediate imposition of additional conditions or restrictions upon the extended hours license, or that a licensee no longer has a valid alcohol license or business tax receipt, he/she may summarily order said suspension, or may summarily impose additional conditions or restrictions. The police chief or his/her designee will take only that action necessary to protect the public interest. The police chief or his/her designee will provide the licensee with all the information required by subsection (1) above, and will additionally disclose the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and his/her reasons for concluding that the action taken is necessary to protect the public interest. The notice of immediate action shall be personally served upon the licensee or posted in a conspicuous place at the establishment of the licensee. The notice shall also advise the licensee that he/she may request a public hearing before the city commission challenging the need for summary action, (an "emergency public hearing") by making a written request within five (5) business days of being served with the notice. Failure to timely request an emergency public hearing shall result in the suspension of the license or the imposition of additional conditions and/or restrictions as contained in the notice without further action by the city. If the licensee requests an emergency public hearing, the public hearing will be conducted by the city commission within twenty-one (21) calendar days of the city's receipt of the request, or at the next scheduled city commission meeting, whichever occurs first, unless extended by agreement of the licensee. At the emergency public hearing, the licensee will be afforded a reasonable opportunity to speak and present evidence on his/her behalf.

(3)

A public hearing on revocation, suspension, or imposition of additional conditions may be noticed upon application and conducted in the manner described in section 3-10 except that no notice shall be required for property owners within the five hundred (500) feet of the parcel. The city commission will consider the matter de novo, and will determine whether the city manager was justified in revoking the extended hours license and whether the license should remain revoked. The burden of proof will be on the applicant seeking the reinstatement of a revoked license.

(4) After consideration of the matter, and after allowing staff and the license holder to address the city commission, and allowing all others wishing to speak three (3) minutes to do so, the city commission may revoke the extended hours license or allow the licensee to continue operating during extended hours, subject to any reasonable additional conditions deemed necessary to mitigate or eliminate the adverse effects of such extended hours. These conditions may include, without being limited to, provision by the licensee, at its expense, of additional security personnel, sound-proofing or noise reduction, and/or provision of additional parking.

(5) Should the extended hours license be revoked, no reapplication shall be considered for that location within a twelve-month period following the date of revocation. No revoked extended hours license shall be reinstated until all applicable conditions of the license are met and the payment of a reinstatement fee in an amount established by resolution of the city commission is made.

(c) *Renewal of extended hours license.* Each extended hours license shall be required to be renewed no later than one (1) year following the date of initial granting of the license. In the case of an extended hours license issued after contingent approval, the extended hours license shall be required to be renewed no later than six (6) months following the date of the initial granting of the license and annually thereafter. The renewal of any extended hours license shall be subject to a renewal fee and processed by the director of community development or his/her designee and reviewed based upon the criteria of sections 3-10 and 3-11. If the director of community development or his/her designee approves the renewal, the license shall be issued. If the director of community development or his/her designee denies the renewal, the licensee shall have ten (10) days from the date of the notice of denial to appeal the decision to the city commission. The city commission shall use the criteria and procedure specified in section 3-11 above in determining said appeal. At the time of the license renewal, the director of community development or his/her designee may, based on the criteria of section 3-11(a), recommend the imposition of additional conditions upon the extended hours licensee. If additional conditions are recommended by the director of community development or his/her designee, the renewal shall be placed on the city commission agenda for public hearing on the proposed imposition of additional conditions, in accordance with subsection (b).

(d) *Appeal procedure.*

(1) The owner of a business for which an extended hours license is requested may appeal to the city commission, consistent with these provisions, any decision rendered by the director of community development to deny the renewal of an extended hours license. Within ten (10) days of the decision, an appeal may be made in writing to the city commission which shall schedule a public hearing as soon as practicable. Notice shall be given and a public hearing

shall be held as prescribed by subsection (b) of this section. The city commission shall consider the appeal and make a decision (with reasons stated) based on the standard set forth in section 3-11(a).

(2) Appeal of any city commission decision regarding an extended hours license shall be to the circuit court in and for Broward County, in the manner provided by state law. In accordance with state law, failure to appeal within thirty (30) days of the rendition of the decision shall result in the applicant waiving his right to appeal.

(e) *Transferability.* An extended hours license shall not be transferable. However, if an establishment is sold and the operation of the business remains identical to that described on the approved extended hours license, then the new owners will be required to apply for a new extended hours license, within thirty (30) days of the purchase, but the city shall limit its review to:

(1) The amount and degree of law enforcement activities generated by the operation of the establishment. Any calls for service between the date of application and the approval may be grounds for denial;

(2) A criminal background check of all owners or managers, as defined in section 3-8, or any other party with a proprietary interest in the establishment, conducted in order to provide assurances that such persons have not been previously convicted of criminal offenses.

(3) A review of any other establishments owned or operated by the owners or managers, as defined in section 3-8, or any other party with a proprietary interest in new owner's establishment to determine the amount and degree of law enforcement activities at such establishments.

(Ord. No. 153-08-A, § 3, 1-22-08; Ord. No. 153-09-A, § 5, 1-24-09; Ord. No. 153-10-A, § 3 1-26-10; Ord. No. 153-11-A, § 5, 4-26-11; Ord. No. 153-12-B, § 5, 4-24-12; Ord. No. 153-13-A, § 5, 4-23-13)

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CHAPTER 83: ALCOHOLIC BEVERAGES

Section

83.01 Exemptions

83.02 Location of licensed premises

83.03 Prohibited acts

83.04 Hours of sale

83.05 Bottle clubs

83.06 Extended operating hours with alcoholic beverage license

83.07 Country club, restaurant and hotel bars

§ 83.01 EXEMPTIONS.

This Chapter shall not prohibit the sale of Alcoholic Beverages at a house of worship if such sale of Alcoholic Beverages is part of an authorized event sanctioned by the institution.

(Ord. 2010-15, passed 10-4-2010)

§ 83.02 LOCATION OF LICENSED PREMISES.

83.02(A) ***Proximity of similar type of establishment.*** No license under StateLaw pertaining to the sale and dispensing of Liquor shall be issued to sell such Liquor for Consumption Off The Premises in any place of business located within 1,000 feet, by airline measurement, from main entrance to main entrance of the place of business of any similar type licensed purveyor of Liquor for Off-Site consumption, and must be separated from similar type licensed establishment by the 1,000-foot distance. No such license shall be issued during the period in which the existing license is renewable at such location; provided, however, that the Owner, by vested right of a license to do business within the prohibited area, may transfer his or her Liquor license to a new Owner doing business at the same location within the prohibited area. There shall be no distance requirement or restriction for:

83.02(A)(1) Restaurants selling Alcoholic Beverages ;

83.02(A)(2) Establishments selling Alcoholic Beverages for on premises consumption; or

83.02(A)(3) Establishments selling Alcoholic Beverages (beer and wine) as an ancillary part of the main business of such establishment (e.g., grocery stores, drugstores, Restaurants , etc.).

83.02(B) ***Proximity of establishments to Child Care Facilities, houses of worship, and schools.*** No license under State Laws pertaining to the sale and dispensing of Alcoholic Beverages, including beer and wine, shall be issued to any Person or officers, employees, servants, or agents of any Person, firm, association, or corporation licensed by the State for the sale of Alcoholic Beverages at any location located within 1,000 feet by airline measurement from any established Child Care Facility, house of worship, or school, measured from the nearest public entrance. Whenever a license has been lawfully procured and thereafter a house of worship or school be established within a distance otherwise prohibited by Law, the establishment of a Child Care Facility, house of worship, or school shall not be cause for the revocation of the license or prevent the subsequent renewal of same. There shall be no distance requirement or restriction for Restaurants selling Alcoholic Beverages where the sale of said Alcoholic Beverages is incidental to its principal business as a Restaurant and where the sale of prepared food is the primary business of the Restaurant.

83.02(C) ***Proximity of Child Care Facilities, houses of worship, and schools to existing establishments.*** It shall be unlawful for any Child Care Facility, house of worship, or school to operate at a location or in a Building within 1,000 feet by airline measurement from any established Child Care Facility, house of worship, or school, measured from the nearest public entrance, provided that this Section shall not apply to such Child Care Facilities, houses of worship, or schools legally in existence and in operation upon passage of this Chapter.

83.02(D) ***Number of establishments limited in certain districts.*** One, but not more than one, Package Store shall be permitted within a "planned employment center district" (PECD) or in a C-1 district. This limitation shall be without regard to its location in relation to other Uses as described in subsections 83.02(A) through 83.02(C) above.

(Ord. 2010-15, passed 10-4-2010)

§ 83.03 PROHIBITED ACTS.

83.03(A) ***On Premises consumption.*** No vendor licensed under the State Laws pertaining to the sale and dispensing of Alcoholic Beverages, including beer and wine, who is not licensed to sell Liquor to be consumed upon the Premises, shall knowingly furnish or provide any setups, glasses, or other service to any Person for the purpose of consuming Liquor in, at, or upon the licensed Premises.

83.03(B) ***Commission of an unlawful act.*** No vendor or distributor shall knowingly, directly or indirectly, commit or assist in the commission of any unlawful act upon any Premises licensed under the State Laws pertaining to the sale of Alcoholic Beverages, including beer and wine. Unless the City has issued a Special Event Permit expressly allowing the consumption of Alcoholic Beverages during the event, it shall be unlawful for any Person to consume any Alcoholic Beverage upon any area available for use by the public for Motor Vehicle parking purposes, or any public Street, Highway, or sidewalk, where such area adjoins or is adjacent or appurtenant to any establishment within the City where Alcoholic Beverages are sold or dispensed.

83.03(C) ***Motor Vehicle parking areas.*** Unless the City has issued a Special Event Permit expressly allowing the consumption of Alcoholic Beverages during the event, it shall be unlawful for any Person or for the officers, employees, servants, or agents of any Person, firm, association, or corporation licensed by the State for the sale of Alcoholic Beverages for

consumption either on or off the Premises to Sell, serve, or dispense any Alcoholic Beverage to any Person, or knowingly permit the consumption of any Alcoholic Beverage by any Person, upon any Motor Vehicle parking area which is adjacent to or adjoining or appurtenant to any establishment within the City licensed for the sale of Alcoholic Beverages.

83.03(D) ***License required.*** Unless the City has issued a Special Event Permit expressly allowing the consumption of Alcoholic Beverages during the event, it shall be unlawful for any Person to drink or consume Alcoholic Beverages, including Liquor, beer, or wines, on any public Streets, in any Public Parks, or in any other government owned or operated Public Place, unless such place is licensed by the City for the sale of Alcoholic Beverages.

(Ord. 2010-15, passed 10-4-2010)

§ 83.04 HOURS OF SALE.

83.04(A) ***Consumption Off The Premises.*** Any Person, or any Employee thereof, who sells or offers for sale in bottles, cans, or containers of any type any Liquor, beer, or wine, regardless of alcoholic content, for Consumption Off The Premises, is hereby prohibited from selling or offering for sale, for Consumption Off The Premises, said Liquor, beer, or wine, regardless of alcoholic content, on any day of the week between the hours of 1:00 a.m. and 7:00 a.m. For such establishments open at anytime between the hours of 1:00 a.m. and 7:00 a.m., a Sign shall be displayed at all cashier locations and at alcohol display areas that shall read as follows: "No Alcoholic Beverage shall be sold between the hours of 1:00 a.m. and 7:00 a.m., pursuant to Section 83.04 of the City Code." At the cashier locations the lettering on the Sign shall be one inch in height and at the display areas the lettering on the Sign shall be one-half inch in height.

83.04(B) ***Consumption On The Premises.*** No vendor licenses under the provisions of the State Laws pertaining to the sale and dispensing of Alcoholic Beverages, including beer and wine, or any employee thereof, shall sell or offer for sale or deliver or serve or permit to be consumed on or upon the Premises of such vendor, any Liquors, beers, or wines, regardless of alcoholic content, on any day of the week between the hours of 1:00 a.m. and 7:00 a.m unless the vendor obtains an Extended Operating Hours with Alcoholic Beverages License under § 83.06 of this Code.

(Ord. 2010-15, passed 10-4-2010; Am. Ord. 2011-08, passed 7-5-2011)

§ 83.05 BOTTLE CLUBS.

83.05(A) ***License required.*** It is a violation of this Section, and a public nuisance, for any Person to operate a Bottle Club, or for such Person's agents, servants, or employees to be employed therein, unless an appropriate license has first been obtained from the City by the operator of said Bottle Club, said Bottle Club is an ancillary Use of an otherwise licensed business, and unless said license is displayed conspicuously at the place of business in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized Officers of the City.

83.05(B) ***Permitted hours.*** Bottle Clubs shall be open only during the hours permitted by Law or ordinance for establishments selling Alcoholic Beverages in the jurisdiction by which the Bottle Club is located. It is a violation of this Section, and a public nuisance, for any Person, his

or her agents, servants, or employees, to open a Bottle Club at any other time or to permit a Bottle Club to remain open at any other time.

83.05(C) ***Injunctions.*** The City may restrain violations of this Section and resulting public nuisances by temporary or permanent injunction, including a mandatory injunction, and such suit or action may be instituted and maintained in the name of the City without bond. Injunctive relief shall not preclude proceeding in a criminal action under this Section. A criminal action shall not preclude proceeding for injunctive relief.

83.05(D) ***Inspections and searches.*** Licensees, by the acceptance of a Bottle Club license, agree and consent that their licensed business shall always be subject to inspection and search, without search warrant, by officers of the Broward County Sheriff's Department, during all hours that such Premises engage in business and at any other time such Premises are occupied by the licensee or other Persons.

(Ord. 2010-15, passed 10-4-2010)

§ 83.06 EXTENDED OPERATING HOURS WITH ALCOHOLIC BEVERAGE LICENSE.

83.06(A) ***Application.*** Any Person or vendor or any place of business operating in the City, and duly and regularly licensed by this State to sell and dispense Alcoholic Beverages, wine or beer for consumption on Premises therein, may apply for an Extended Operating Hours with Alcoholic Beverage License, provided that a site plan has been approved for the Premises. Such license application shall be processed using the same procedures as for a variance (including cost recovery deposit), but using the criteria listed in subsection 83.06(B) below. The fee for the issuance or renewal of said license shall be set and amended by resolution of the City Commission. Such Extended Operating Hours with Alcoholic Beverage License shall permit and extend the hours in which such licensee may stay open and sell Alcoholic Beverages for Consumption On The Premises until not later than 3:00 a.m. (or such earlier time as specifically authorized by resolution of the City Commission). Every such license shall expire on September 30 of each and every Year. The fee for the issuance or renewal of said license shall be paid within 30 days of the initial approval or any renewal date. Failure to timely pay the fee shall result in the immediate and automatic revocation of the approval or license.

83.06(B) ***Criteria.*** The specific criteria for the City Commission's consideration are as follows:

83.06(B)(1) The amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to the adverse impact on adjacent Residential Areas of any illegal or hazardous parking.

83.06(B)(2) The amount and degree of law enforcement activities generated by the operation of the establishment, both outside and inside the particular location, with particular emphasis on the vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees, patrons or others associated with the establishment.

83.06(B)(3) The adverse effects if any, that the extended hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or Exterior Lighting on nearby residential properties.

83.06(C) ***Conditions.*** The City Commission may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed by it to be necessary to mitigate or eliminate the adverse effects of such extended hours. These conditions may include, without being limited to, provision by the Owner or operator, at his or her expense, additional off-street parking, security personnel and screening and buffering from nearby properties.

83.06(D) ***Renewal.*** The granting of an Extended Operating Hours with Alcoholic Beverage License to a particular licensee is a privilege subject to revocation at any time by the City Commission, and no Person may reasonably rely on a continuation of that privilege. In the absence of ongoing revocation proceedings, an Extended Operating Hours with Alcoholic Beverage License may be renewed annually upon payment of the aforementioned fee prior to October 1 of each Year.

83.06(E) ***Revocation.*** If, at any time, the City Manager determines that any licensee has either violated a condition of granting of the license or is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection 83.06(B), he or she may place on the City Commission agenda the matter of revoking the Extended Operating Hours with Alcoholic Beverage License. Such hearing shall be publicly advertised in a newspaper of local circulation; and further, written notice of the charges against the licensee shall be sent to him or her at least 14 days in advance and shall also contain the date, time and place of such hearing. After consideration of the matter and allowing the licensee to be heard, the City Commission may revoke, modify or condition the Extended Operating Hours with Alcoholic Beverage License. The criteria to be used by the City Commission in such matters shall be the criteria specified in subsections 83.06(B) and 83.06(C) above. Should the license or privilege be revoked, conditioned or modified, the licensee may seek review of such action before the City Commission after six months. The City Commission may then modify or refuse to modify its action. Only one such review shall be given within a 12-month period.

83.06(F) ***Conspicuously displayed.*** The license shall be conspicuously displayed within ten feet of the main entrance to the establishment.

83.06(G) ***License transfer.*** A license may be transferred to a new Owner when there is a bona fide sale of the business, upon payment of a transfer fee as set forth by resolution of the City Commission. The transferred license shall be subject to the conditions of the original approval.

(Ord. 2010-15, passed 10-4-2010; Am. Ord. 2014-04, passed 2-3-2014)

§ 83.07 COUNTRY CLUB, RESTAURANT AND HOTEL BARS.

The sale of beers, wines, and Liquors shall be prohibited except during the time that the country club, Restaurant or Hotel is actually engaged in and open to the public for operation. No Sign denoting that Alcoholic Beverages are obtainable within the country club, Restaurant or Hotel shall be exhibited on the exterior of the Premises.

(Ord. 2010-15, passed 10-4-2010)