

REQUESTED COMMISSION ACTION:

Consent       Ordinance      Resolution      Consideration/  
 Discussion      Presentation

SHORT TITLE

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 155 "ZONING CODE", BY AMENDING SECTION 155.4218, "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO MODIFY STANDARDS FOR BARS OR LOUNGES AS ACCESSORY USES TO RESTAURANTS; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO MODIFY REQUIREMENTS FOR BARS OR LOUNGES AS ACCESSORY USES TO RESTAURANTS WHICH ARE EXEMPT FROM SEPARATION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**Summary of Purpose and Why:**

At the January 13, 2015 City Commission Hearing, Staff was directed to research inconsistencies between the State's and City's licensure of restaurants with accessory bars (4COP SRX license). Subsequently Staff presented the results of the research and recommended the city's standards for restaurant size and number of seats be reduced to be consistent with the state's recently reduced thresholds. At the May 12, 2015 City Commission Hearing, Ordinance 2015-51 was adopted which revised the city's standards for restaurants with accessory bars. However, Staff has determined that the city's revised standards were inconsistent with the Florida Administrative Code's rules regarding the SRX license. Specifically the State's rules do not require seats to be indoors and include all floor area in the determination of minimum size. The text amendments were recommended at the July 22, 2015 Planning and Zoning Board meeting.

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

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	07/14/2015	Approval	Memo #15-381 <i>[Signature]</i>
City Attorney	09/03/2015	Approval <i>S</i>	Memo #2015-1571 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #15-055 (07/30/2015)
X City Manager <i>[Signature]</i>		<i>[Signature]</i>	

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





**City Attorney's Communication #2015-1571**

September 3, 2015

**TO:** Karen Friedman, AICP, Principal Planner  
**FROM:** Mark E. Berman, City Attorney  
**RE:** Ordinance Amending Chapter 155, "Zoning Code"

As requested in your memorandum of August 26, 2015, Department of Development Services Memorandum No. 15-453, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

**AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4218., "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO MODIFY STANDARDS FOR BARS OR LOUNGES AS ACCESSORY USES TO RESTAURANTS; BY AMENDING SECTION 155.4501., "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO MODIFY REQUIREMENTS FOR BARS OR LOUNGES OPERATED AS ACCESSORY USES TO RESTAURANTS WHICH ARE EXEMPT FROM SEPARATION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.



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MARK E. BERMAN

/jrm  
l:cor/dev-srv/2015-1571

Attachment

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

**AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4218., "COMMERCIAL: EATING AND DRINKING ESTABLISHMENTS," TO MODIFY STANDARDS FOR BARS OR LOUNGES AS ACCESSORY USES TO RESTAURANTS; BY AMENDING SECTION 155.4501., "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO MODIFY REQUIREMENTS FOR BARS OR LOUNGES OPERATED AS ACCESSORY USES TO RESTAURANTS WHICH ARE EXEMPT FROM SEPARATION REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

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

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

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

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

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

**A. BAR AND LOUNGE**

**1. Districts Where Permitted**

**3. Standards**

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

...

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

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

...

**B. EXCEPTIONS**

Table 155.4501.B lists uses that are exempt from the separation requirements in Table 155.4501.A.

<b>TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES</b>		
<b>Use and Criteria</b>	<b>Required Separation</b>	
	<b>Any other use involving the sales of alcoholic beverages; and Sexually oriented business</b>	<b>Child Care facility; School; and Place of Worship</b>
...	...	...
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has <del>indoor</del> dining accommodations for service of 150 or more patrons at tables <u>in a covered area, and</u> occupying more than 2,500 square feet of <del>customer service area</del> <u>floor space</u> , and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
...	...	...

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

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

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

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

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
9/3/15  
L:ord/ch155/2015-482

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY  
MEMORANDUM #15-055**

**DATE:** July 30, 2015  
**TO:** City Commission  
**FROM:** Planning and Zoning Board/ Local Planning Agency  
**SUBJECT:** Proposed Text Amendments to Zoning Code  
Article 4, Restaurants with Accessory Bars

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At the meeting of the Planning and Zoning Board/ Local Planning Agency held on July 22, 2015, the Board considered proposed text amendments to the Zoning Code regarding Restaurants with Accessory Bars as set forth in the Department of Development Services Administrative Report 15-381.

Staff has determined the City's standards are inconsistent with Florida Administrative Code's rules regarding the 4COP SRX license. The Board is recommending text amendments to strike the requirement for the 150 seats to be indoors and rather require the seats to be covered. The text amendments also strike the requirement of 2,500 square footage of "customer service area" and require the square footage to be of "floor area" instead.

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



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Jerry Mills  
Vice Chairman  
Planning and Zoning Board/ Local Planning Agency

# MEMORANDUM


## Development Services

ADMINISTRATIVE MEMORANDUM NO. 15-381

DATE: July 14, 2015

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services 

FROM: Karen Friedman, AICP, Principal Planner 

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

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

- At the April 28, 2015 City Commission hearing, Ordinance 2015-51 was adopted
- This Ordinance reduced the number of seats and customer service area required by the state for accessory bars licenses (4COP SRX license).
- In the interim, Staff has determined the city's standards are inconsistent with Florida Administrative Code's rules regarding the SRX license.
- Staff is therefore proposing text amendments to revise two standards as follows:
  - Strike the requirement for the 150 seats to be indoors, and rather require the seats to be covered.
    - This change reflects FAC 61A-3.0141(2)(a)1. which states, "The required square footage shall not include any space contained in an uncovered or not permanently covered area."
  - Strike the requirement for the 2,500 square footage to be of customer service area, and rather require square footage to be of floor area.
    - This change reflects FAC 61A-3.0141(2)(a)3. which states "Kitchens, food service areas, pantries, storage rooms, offices, and toilets, used exclusively in the operation of the restaurant shall be included in the required square footage."

A copy of FAC 61A-3.0141 is enclosed. Please note that while the FAC states Broward is exempt from these rules due to a Special Act, the Special Act was repealed in 1971. Therefore restaurants in Broward County shall comply with FAC 61A-3.0141.

### Staff's Request

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



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

**A. BAR AND LOUNGE**

**1. Districts Where Permitted**

...

**2. Definition**

...

**3. Standards**

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

...

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

...

**B. EXCEPTIONS**

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES			
Use and Criteria	Required Separation		
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care facility; School; and Place of Worship	
...	...	...	
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has <u>indoor</u> dining accommodations for service of 150 or more patrons at tables <u>in a covered area, and</u> occupying more than 2,500 square feet of <u>customer service area floor space</u> , and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence	
...	...	...	

### **61A-3.0141 Special Restaurant Licenses.**

(1) Special restaurant licenses in excess of the quota limitation set forth in subsection 561.20(1), Florida Statutes, shall be issued to otherwise qualified applicants for establishments that are bona fide restaurants engaged primarily in the service of food and non-alcoholic beverages, if they qualify as special restaurant licensees as set forth in subsection (2) of this rule. Special restaurant licensees must continually comply with each and every requirement of both subsections (2) and (3) of this rule as a condition of holding a license. Qualifying restaurants must meet the requirements of this rule in addition to any other requirements of the beverage law. The suffix "SRX" shall be made a part of the license numbers of all such licenses issued after January 1, 1958.

(2) Special restaurant licenses shall be issued only to applicants for licenses in restaurants meeting the criteria set forth herein.

(a) Except in the counties of Alachua, Brevard, Broward, Citrus, for premises with a cocktail lounge or open bar, Dade, Pasco, St. Lucie, Walton, Martin, Nassau, Okaloosa, Okeechobee, Osceola, Hendry, Highlands, Hillsborough, Indian River, Lake, and Orange County with respect to Orlando, Winter Park, and Maitland, each of the above being controlled by general law or special act, a qualifying restaurant must have a service area occupying 2,500 or more square feet of floor space.

1. The required square footage shall not include any space contained in an uncovered or not permanently covered area adjacent to the premises because food service is not available at all times.

2. The required square footage shall be contiguous and under the management and control of a single licensed restaurant establishment.

3. Kitchens, food service areas, pantries, storage rooms, offices, and toilets, used exclusively in the operation of the restaurant shall be included in the required square footage. Measurements will be taken from the outside of qualifying structures or areas.

(b) Except in the counties of Alachua, Brevard, Broward, Dade, Hendry, Highlands, Walton, Hillsborough, Indian River, Pasco, Martin, Nassau, Okaloosa, St. Lucie, Osceola, and Orange County with respect to Orlando, Winter Park, and Maitland, each of the above being controlled by general law or special act, a qualifying restaurant must have accommodations for the service and seating of 150 or more patrons at tables at one time.

1. The tables and seating must be located within the floor space provided for in paragraph (2)(a) of this rule.

2. The tables must be of adequate size to accommodate the service of full course meals in accordance with the number of chairs or other seating facilities provided at the table.

3. Seating at counters used to serve food shall be included in the minimum seating requirements.

(c) Except in those counties and municipalities controlled by general law or special act, as set forth in paragraph (2)(b) of this rule, a qualifying restaurant must have all equipment for the service of 150 full course meals on the premises at one time.

(d) An applicant for an SRX license must either hold, or have applied for, the appropriate restaurant license issued by the Division of Hotels and Restaurants prior to issuance of the temporary SRX license. The restaurant must hold the appropriate restaurant license before it will be eligible for a permanent SRX license.

(e) A qualifying restaurant must comply with all fire safety laws relating to the operation of a restaurant.

(3) Qualifying restaurants receiving a special restaurant license after April 18, 1972 must, in addition to continuing to comply with the requirements set forth for initial licensure, also maintain the required percentage, as set forth in paragraph (a) or (b) below, on a bi-monthly basis. Additionally, qualifying restaurants must meet at all times the following operating requirements:

(a) At least 51 percent of total gross revenues must come from retail sale on the licensed premises of food and non-alcoholic beverages. Proceeds of catering sales shall not be included in the calculation of total gross revenues. Catering sales include food or non-alcoholic beverage sales prepared by the licensee on the licensed premises for service by the licensee outside the licensed premises.

1. Qualifying restaurants must maintain separate records of all purchases and gross retail sales of food and non-alcoholic beverages and all purchases and gross retail sales of alcoholic beverages.

2. The records required in subparagraph (3)(a)1. of this rule must be maintained on the premises, or other designated place approved in writing by the division for a period of 3 years and shall be made available within 14 days upon demand by an officer of the division. The division shall approve written requests to maintain the aforementioned records off the premises when the place to be designated is the business office, open 8 hours per work day, of a corporate officer, attorney, or accountant; the place to be designated is located in the State of Florida; and the place to be designated is precisely identified by complete mailing address.

3. Since the burden is on the holder of the special restaurant license to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible, clear, and in the English language.

4. The required percentage shall be computed by adding all gross sales of food, non-alcoholic beverages, and alcoholic

beverages and thereafter dividing that sum into the total of the gross sales of food plus non-alcoholic beverages.

(b) Restaurants issued special restaurant licenses prior to April 18, 1972 but after September 1, 1969 shall be required to derive at least 30 percent of gross revenues from the sale of food and non-alcoholic beverages.

(c) Restaurants holding special restaurant licenses issued prior to September 1, 1969 are not required to derive any fixed amount of gross revenue from the sale of food and non-alcoholic beverages but must operate as a bona fide restaurant and meet the other requirements of this rule.

(d) Full course meals must be available at all times when the restaurant is serving alcoholic beverages except alcoholic beverage service may continue until food service is completed to the final seating of restaurant patrons for full course meals. A full course meal as required by this rule must include the following:

1. Salad or vegetable;
2. Entree;
3. Beverage; and
4. Bread.

(e) For purposes of determining required percentages, an alcoholic beverage means the retail price of a serving of beer, wine, straight distilled spirits, or a mixed drink.

(4) Establishments obtaining and operating under a temporary initial license as provided in Section 561.181(2), Florida Statutes, or under a temporary transfer license as provided in Section 561.331, Florida Statutes, shall be investigated by the division during said operation and prior to issuance of a permanent license to insure that the establishment is a bona fide restaurant primarily engaged in food and non-alcoholic beverage sales and service and that the requirements of this rule have been met. The failure of an establishment to operate as a bona fide restaurant during said period of time shall result in denial of the application for a special restaurant license. An application for a special restaurant license from an establishment which has had a prior application for a special restaurant license denied during the previous 30-day period will be accepted by the division. The recent denial of the prior application will, however, be deemed a disclosure on the face of the subsequent application of a reason to deny such subsequent application. Accordingly, in such cases, no temporary initial license will be issued for a period of 30 days to allow the division inspectors to ensure that the reason to deny has been abated.

*Specific Authority 561.11 FS. Law Implemented 561.20(2)(a)4. FS. History--New 8-23-90, Amended 5-19-91, 10-22-91, Formerly 7A-3.0141.*

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

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

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

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

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

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

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

**A. BAR AND LOUNGE**

**1. Districts Where Permitted**

2. Definition

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

3. Standards

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

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

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

**A. GENERAL**

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

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

TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES <sup>1</sup>	
EXISTING USE	MINIMUM SEPARATION <sup>2</sup>
Any other use involving the sale of alcoholic beverages other than those uses listed in Section 155.4501.B	1,000 feet (Measurement Type 1)
Sexually oriented business	
Child care facility	500 feet (Measurement Type 2) and 300 feet (Measurement Type 3)
School	
Place of worship	
NOTES:	
1. Measurement Type 1: Separation shall be measured from main entrance to main entrance of the establishments by airline route.	
2. Measurement Type 2: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.	
3. Measurement Type 3: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measure by airline route.	
4. All separations shall be measured from establishments located within or outside of the City limits.	
5. Compliance with these separation standards shall not be affected by the subsequent rezoning of the site of the alcoholic beverage establishment to AOD, conveyance of city-owned property, or the establishment of one of the uses from which separation is required on a property closer than the required separation distance. In such case, the alcoholic beverage establishment shall be construed as continuing to comply with the separation standards.	

## B. EXCEPTIONS

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

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

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

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

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

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




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

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

**PASSED FIRST READING** this 28<sup>th</sup> day of April, 2015.

**PASSED SECOND READING** this 12<sup>th</sup> day of May, 2015.

  
LAMAR FISHER, MAYOR

**ATTEST:**

  
ASCELETA HAMMOND, CITY CLERK

GBL/jrm  
4/7/15  
Lord/ch155/2015-294

