

TAB 1

**Alcohol Ordinance  
Workshop to receive public input  
September 1, 2009**

**POINT PAPER**

**Problem:** Based on recent discussions regarding a specific alcohol permit application Commission requested that staff review our current ordinance regarding sale of alcoholic beverages within the City.

**Background:** As a result of recent discussion between staff and Commission regarding a specific application for an alcohol permit, we were advised to re-evaluate the entire alcohol ordinance for potential modification. Staff has reviewed the current ordinance and provided an outline of the laws governing alcohol sales (see Exhibit A). There are essentially four main components to the ordinance as follows:

Hours of sale  
Selling Locations  
Consumption  
Under 21

Each of the areas identified above has been summarized as part of the outline. In addition, a copy of the entire ordinance is included for your review (see Exhibit B). Commission and staff asked for public input on the ordinance before any modifications were considered. Staff is looking for direction on two separate but related issues:

- Does the Commission wish to change the current separation requirements to allow full service restaurants to serve beer and wine? Such a change would address potential issues regarding a number of existing restaurants.
- Are there any other changes within the ordinance that Commission would like to see changed or clarified?

**Alternatives:**

Staff and Commission to discuss alternatives

**Recommendation:** To be determined

**Budget Impact:** None Identified

# **Alcohol Ordinance Outline**

## **Exhibit A**

### **Hours of Sale**

- Prohibited between 2:30am – 6:00am during weekdays
- Prohibited between 2:30 am Sunday until 6:00 am the following day
  - Except if Christmas and New Years is on Sunday, then permitted between 12:30 pm Sunday until 2:30 am the following day.
- Grandfather clause for properties which previously sold alcohol on Sundays and are involuntarily annexed into the City. These properties can continue to sell beer and wine for off-premises consumption until discontinued for a period of 90 continuous days.
- Sale of alcohol is permitted on Sundays between 12:30 pm and 11:59 pm by any bona fide restaurant, or special licenses holder (see 561.20(2))
  - No beverages sold in packages or for off premise consumption.

### **Selling, Where Prohibited**

- Cannot be sold within 300 feet of established church or school
  - Church-measured as shortest pedestrian route between main entrance of business to main entrance to church
  - School- measured as shortest pedestrian route between main entrances of business to nearest point of school grounds in use as part of school.
- Cannot be sold in any establishment within 200 street of 10<sup>th</sup> street , west of 14<sup>th</sup> Avenue
  - Except beer and wine sales for off premise is allowed between 28<sup>th</sup> Avenue and 31<sup>st</sup> Avenue
- Liquor sales are only allowed in the following areas:
  - Along 10<sup>th</sup> Ave. from Riverside to 50<sup>th</sup> Street
  - Along Riverside from 10<sup>th</sup> Ave. to 8<sup>th</sup> Ave.
  - Along 8<sup>th</sup> from Riverside Dr. to Northern City limits
  - Along 17<sup>th</sup> Street from 8<sup>th</sup> Ave. to SAL RR Crossing
  - Along 10<sup>th</sup> Street from 10<sup>th</sup> Ave E. to Easternmost city limit
  - Along 7<sup>th</sup> Street east from 6<sup>th</sup> Ave. to US 19,41,301
  - Along US 19, 41,301 south from 10<sup>th</sup> street to DeSoto Bridge
  - Along 3<sup>rd</sup> Ave from 9<sup>th</sup> to 10<sup>th</sup> street
  - Along the east 200 feet of 9<sup>th</sup> Street Dr.
  - Along 8<sup>th</sup> Ave. from 4<sup>th</sup> Street to Riverside Dr.
  - Along 6<sup>th</sup> Street from 8<sup>th</sup> to 9<sup>th</sup> Ave.
  - Entire length of Haben Blvd. including only commercially zoned property bound by US 301 to North, US 301/41 to West. Manatee River to South and Easternmost city limits.

- Along 10<sup>th</sup> Street West, but only within 1,000 from the center of the bridge at Governments Cut.

### **Consumption prohibited in certain areas**

- Unlawful to drink or consume alcohol containing more than 1% of alcohol by weight in the following areas:
  - Public streets and sidewalks
  - Public parking lots that adjoin or are adjacent to establishments where alcohol is sold or dispensed.
  - Public property adjacent to the police department
  - The area adjacent to and upon which City Hall is located
  - The area adjacent to and upon which the maintenance facility is located
  - The area adjacent to and upon which the sewage treatment plant is located
  - The area adjacent to and upon which the cemetery is located
  - All areas included in parks owned by the City

### **Under 21 (recently revised)**

- Unlawful to person under 21 to enter or remain on premises where alcoholic beverages are being sold or serving alcohol for consumption on premise.
- Unlawful to present false or fraudulent proof of age to gain entry into establishments serving/selling alcohol for consumption on premise.
- Unlawful to allow someone who is knowingly under 21 to remain on premises where alcohol is being sold for consumption on premise.
- Persons under 21 can remain on site if the establishment is a bona fide restaurant or any special license holder event.
- Persons under 21 are allowed if:
  - an employee performing work duties
  - providing security, maintenance or entertainment
  - delivering goods
  - performing a public or legal duty (e.g., health inspection, fire, law enforcement)
  - “teen night” where alcohol sales have been suspended

Chapter 4

**ALCOHOLIC BEVERAGES\***

**Sec. 4-1. Hours of sale.**

(a) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place or establishment licensed by the state for the sale of intoxicating beverages, on weekdays between the hours of 2:30 a.m. and 6:00 a.m.

(b) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place licensed by the state for the sale of intoxicating beverages between 2:30 a.m. Sunday until 6:00 a.m. the following day, except that when Christmas Eve and New Year's Eve occur on Sunday, the sale of intoxicating beverages shall be permitted from 12:30 p.m. Sunday until 2:30 a.m. the following day. In situations in which properties have establishments located upon them which sell alcoholic beverages on Sunday and the properties are annexed into the city by means of the involuntary annexation statute, the sale of beer and wine for off-premises consumption shall be allowed to continue on only the properties subject to the annexation wherein such sales took place until such time as such use is discontinued for a continuous period of ninety (90) days. In the event that the use is discontinued for a period exceeding ninety (90) days, the property would then be subject to prohibition against Sunday sales of alcoholic beverages as set forth in this paragraph.

(c) Notwithstanding the restriction in subsection (b), the sale of intoxicating beverages shall be permitted on Sundays between the hours of 12:30 p.m. and 11:59 p.m. by any bona fide restaurant, and any holder of a special license issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation under section 561.20(2) and (7), Florida Statutes, or any rules issued under such statute by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; provided, that alcoholic beverages are sold only during the time such holder is actively engaged in the primary business of the holder. No alcoholic beverages shall be sold in packages or for consumption off the premises.  
(Code 1975, § 4-1; Ord. No. 359, § 1, 3-6-89; Ord. No. 460, § 1, 9-23-91)

**State law reference**—Authority to regulate hours, F.S. §§ 562.14(1), 562.45(2).

**Sec. 4-2. Selling, where prohibited.**

(a) No intoxicating beverages shall be sold within three hundred (300) feet of an established church or school. This distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the place of business wherein the intoxicating beverages are sold to the main entrance of the church, and in the case of a school, to the nearest point of the school grounds in use as part of the school facilities.

**\*Cross references**—Administration, Ch. 2; minors prohibited from entering any pool-room or billiard room where alcoholic beverages are sold, § 5-46; licenses and business regulations, Ch. 19;

(b) No alcoholic beverages shall be sold in any establishment within two hundred (200) feet of Tenth Street, west of Fourteenth Avenue, within the city, except there shall be no prohibition against the sale of beer and wine for consumption off the premises between Twenty-eight Avenue and Thirty-first Avenue.

(c) It shall be unlawful for any person or the agent or employee of any person to sell or offer for sale, any intoxicating liquor, except beer or wine, at any place in the city except the following:

- (1) Along Tenth Avenue from Riverside Drive to Fifty Street;
- (2) Along Riverside Drive from Tenth Avenue to Eighth Avenue;
- (3) Along Eighth Avenue from Riverside Drive north to the northern city limits;
- (4) Along Seventeenth Street from Eighth Avenue east to the S.A.L. railroad crossing on Seventeenth Street;
- (5) Along Tenth Street from Tenth Avenue east to the easternmost city limits;
- (6) Along Seventh Street east from Sixth Avenue to Highways 19, 41 and 301;
- (7) Along Highways 19 and 41 and 301 south from Tenth Street to the DeSoto Bridge;
- (8) Along Third Avenue from Ninth Street to Tenth Street;
- (9) Along the east 200 feet of Ninth Street Drive;
- (10) Along Eighth Avenue from Fourth Street to Riverside Drive;
- (11) Along Sixth Street from Eighth Avenue to Ninth Avenue;
- (12) Areas designated as commercial in PUD zoned areas upon compliance with Ordinance No. 196, the conditional use ordinance, which is on file in the city clerk's office;
- (13) Along the entire length of Haben Boulevard including only all commercially zoned property within an area bounded on the north by Highway 301, on the west by Highway 301/41, on the south by the Manatee River, and on the east by the easternmost city limits;
- (14) Along Tenth Street west, but only within a radius of one thousand (1,000) feet from the center of the bridge at Government Cut.

(Code 1975, §§ 4-4, 4-5(a), (c); Ord. No. 254, § 1, 10-7-85; Ord. No. 324, § 2, 8-17-87; Ord. No. 368A, § 1, 4-17-89)

#### **Sec. 4-3. Consumption prohibited in certain areas.**

(a) It shall be unlawful for any person to drink or consume any alcoholic beverage containing more than one (1) percent of alcohol by weight upon any of the following areas or locations within the city:

- (1) Public streets and sidewalks;

- (2) Any areas available for use by the public for motor vehicle parking purposes where such areas adjoin or are adjacent to any establishment where alcoholic beverages are sold or dispensed;
- (3) The area of public property adjacent to and upon which the police department is located;
- (4) The area adjacent to and upon which the city hall is located;
- (5) The area adjacent to and upon which the maintenance facility is located;
- (6) The area adjacent to and upon which the sewage treatment plant is located;
- (7) The area adjacent to and upon which the cemetery is located;
- (8) All areas included in city parks owned by the city.

(b) It shall be the responsibility of each licensee of any establishment licensed to sell alcoholic beverages containing more than one (1) percent of alcohol by weight to have conspicuously posted at all times a sign, which shall be furnished without charge by the chief of police, calling to the attention of the public the provisions of paragraph (a) of this section.

(Code 1975, § 4-5(d), (e))

**Cross references**—Cemeteries, Ch. 9; streets, sidewalks and other public places, Ch. 25; utilities, Ch. 29.

**Sec. 4-4. Permitting access to minors.**

(a) It shall be unlawful for any holder of a license to operate a saloon, bar, cocktail lounge or other place where intoxicating liquors are sold for consumption on the premises to allow or permit any person under the age of eighteen (18) years to visit, loiter, idle, stroll, wander or loaf in such premises, unless such minor is attended or accompanied by his parent or guardian.

(b) Notwithstanding the provision of subsection (a), a person under the age of eighteen (18) years, without being attended or accompanied by a parent or guardian, may be allowed to be present at and remain on the premises of any bona fide restaurant or any holder of a special license issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation under section 561.20(2) and (7), Florida Statutes, or any rules issued under said statute by Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; provided, that alcoholic beverages are sold only during the time such holder is actively engaged in the primary business of the holder.

(Code 1975, § 4-2; Ord. No. 460, § 2, 9-23-91)

**State law reference**—Minors visiting dance halls operated in connection with businesses selling alcoholic beverages, F.S. § 562.48.

**Sec. 4-5. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- (1) *Restaurant*. To determine whether a "restaurant" is a bona fide restaurant for the purposes of this chapter, such restaurant must:
  - a. Contain all necessary equipment for the service of full course meals.

- b. Serve full-course meals regularly and at all times such restaurant is open for business. A full-course meal shall include, at a minimum, the following:
  - 1. Salad.
  - 2. Entree.
  - 3. Dessert.
  - 4. Beverage.
  - 5. Bread and butter.
- c. Derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages. The restaurant shall maintain records regarding the purchase and sale of alcoholic beverages and the purchase and sale of food and nonalcoholic beverages in accordance with the rules and regulations of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation.
- d. Contain tables of adequate size to accommodate the service of full-course meals in accordance with the number of chairs found at that table.
- e. Primarily advertise and hold itself out to the public to be a place where meals are served.
- f. Contain necessary tableware, seating and dining room equipment to handle the seating capacity found within the restaurant.
- g. Employ such number and types of employees for serving full-course meals to guests.
- h. Have as its primary operation, the serving of meals and not for the sale of alcoholic beverages.

(2) *Actively engaged in a primary business.* The phrase "actively engaged in a primary business of the license holder" means that the holder of such special liquor license as described herein shall primarily engage in a business pursuit other than the sale of alcoholic beverages and of a type suited to and in accordance with the facilities provided at the establishment of the holder and for which the holder holds itself out to the public.

(Ord. No. 460, § 3, 9-23-91)