

**TAB 2**

## Chapter 4 - ALCOHOLIC BEVERAGES\*

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

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, between the hours of 2:30 a.m. and 6:00 a.m.

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 feet (300') of an established church or school. This distance shall be measured by following the shortest route of ordinary pedestrian travel from the main entrance of the place of business wherein the intoxicating beverages are sold to the starting point of the pavement of the nearest public street, then travelling along the public streets to the nearest entrance property line of a church or school.

(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; Ord. No. 09-1000, § 2, 9-28-09)*

**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.

(c) In conjunction with a Special Function Permit and Commission approval, alcohol may be sold and consumed in parks and streets as part of the special function permit.

*(Code 1975, § 4-5(d), (e))*

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

**Sec. 4-4. - Persons under the age of 21 in alcoholic beverage establishments.**

(a)

It shall be unlawful for any person under the age of twenty-one (21) to enter or remain on the premises of any establishment where alcoholic beverages are sold or served while that establishment is selling and/or serving alcoholic beverages for consumption on premises.

(b)

It shall be unlawful for any person to present false, altered or otherwise fraudulent proof of age to attempt to gain entry to any establishment where alcoholic beverages are sold or served for consumption on premises while that establishment is selling and/or serving alcoholic beverages for consumption on premises.

**(c)**

It shall be unlawful for any establishment where alcoholic beverages are sold or served, or any employee or agent thereof, to knowingly admit or permit to remain on the premises of such establishment any person under the age of twenty-one (21) while that establishment is selling and/or serving alcoholic beverages for consumption on premises.

**(d)**

Nothing herein shall prohibit a person under the age of twenty-one (21) years old from being present at and remaining 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 F.S. §§ 561.20(2) and (7) or any rules issued under said statutory subsections 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.

**(e)**

Each establishment where alcoholic beverages are sold for consumption on the premises shall develop a written policy setting forth its system for verifying the age of persons it admits onto its premises and shall provide a copy of such policy to the city chief of police. The city police department is authorized to develop, publish and periodically revise a model age verification system for such establishments. Should the city police department publish a model system, any establishment where alcoholic beverages are sold for consumption on the premises which adopts and implements that system may subsequently be found in violation of this section but shall not be fined for an unintentional violation unless it has already been found in violation within the six (6) months preceding the current violation. Each establishment shall only be able to benefit from this fine forbearance once.

**(f)**

Nothing herein shall be deemed to in any way prohibit any person under the age of twenty-one (21) from:

**(1)**

Being present in an establishment where alcoholic beverages are sold for consumption on the premises as an employee of that establishment to perform work duties;

**(2)**

Being present in an establishment where alcoholic beverages are sold for consumption on the premises pursuant to an agreement with that establishment to provide some service, including providing security, maintenance, or entertainment to the establishment or its patrons;

**(3)**

Being present in an establishment where alcoholic beverages are sold for consumption on the premises for the purposes of making a delivery of goods to that establishment;

(4)

Being present in an alcoholic beverage establishment while performing a public or legal duty, such as law enforcement, fire suppression, building inspection, or health inspection;

(5)

Being present in an establishment where alcoholic beverages are sold for consumption on the premises when such establishment is not then selling and/or serving alcoholic beverages but is otherwise open to the public, such as when such establishment is holding a "teen night" or similar program. Such establishment shall ensure that all persons under the age of twenty-one (21) have left the premises after any such program prior to resumption of service of alcoholic beverages.

*(Ord. No. 09-996, § 2, 8-3-09)*

**Editor's note—**

Ord. No. 09-996, § 2, adopted Aug. 3, 2009, amended § 4-4 in its entirety.

Previously, § 4-4 pertained to similar subject matter and derived from the Code of 1975, § 4-2; Ord. No. 460, § 2, adopted Sept. 23, 1991.

**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 4, the following words and phrases shall have the following meanings:

*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.

*Alcoholic beverages.* The term "alcoholic beverages" shall be defined as those beverages containing more than one (1) percent of alcohol by weight including, but not limited to, beer, wine, malt beverages, liquor and distilled spirits.

*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;
- 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. Primarily advertise and hold itself out to the public to be a place where meals are served;
- e. Contain necessary tableware, seating and dining room equipment to handle the seating capacity found within the restaurant;
- f. Employ such number and types of employees for serving full-course meals to guests; and
- g. Have as its primary operation the serving of meals and not the sale of alcoholic beverages.

**(Ord. No. 460, § 3, 9-23-91; Ord. No. 09-996, § 2, 8-3-09)**