

Tab 5

AMENDING ALCOHOLIC BEVERAGE CODE
Chapter 4

**Palmetto, Florida, Code of Ordinances CODE OF ORDINANCES - Chapter 4 -
ALCOHOLIC BEVERAGES**

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Sec. 4.0 - Purpose

The sale or service of alcoholic beverages has the potential to generate activity which may impact other uses in an adverse manner. Such impacts may be mitigated in different ways including but not limited to buffering or the provision of adequate separation distances.

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.

(Code 1975, § 4-1; Ord. No. 359, § 1, 3-6-89; Ord. No. 460, § 1, 9-23-91; Ord. No. 2010-13, § 2, 8-16-10)

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

(Code 1975, § 4-5(d), (e))

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

Sec. 4.2. Applicability

- a. The sale of alcohol beverages shall be permitted in CG, CC, CHI and PD (allowing commercial uses) zoning districts subject to Sec. 4.3 - Minimum Distance Requirements.
- b. In addition to a. above, certain alcoholic beverage uses (those having a 1-COP, 2-COP, 1-APS or 2- APS license) may be located within the CN zoning district subject to Sec. 4.3 - Minimum Distance Requirements.

Sec. 4.3 – Minimum Distance Requirements

- a. No intoxicating beverages shall be sold within three hundred feet (300) of an established church, or school or child care center. 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 property line of a church or school or child care center. This section shall not apply to such churches or schools or child care centers in existence and in lawful operation prior to _____

Sec. 4.4 Alcohol Beverage Permit

Public hearing approval required for waivers.

- a. The City Commission may upon written application for an alcohol beverage permit by the vendors of alcoholic beverages, grant a waiver to the distance requirements of Section 4-3 or to the zoning requirements of Section 4.2. The petition shall be accompanied by appropriate survey material, maps, and site plan.
- b. No waivers shall be made until after a public hearing thereon is held, and a notice of the public hearing shall be published in a newspaper of general circulation in the city on a date no less than 15 days prior to the date set for the hearing.

Further, no waiver shall be granted until the city commission considers the following in order to make a determination:

1. Whether the license is being added to or is a license upgrade of an existing use or to an establishment which is relocating to the subject location;
2. Whether the approval of the waiver will result in two or more alcoholic beverage establishments being in close proximity to each other;
3. Whether the primary entrance for customers into any establishment serving alcoholic beverages for consumption on premises is visible from a public street.
4. Whether the proposed establishment is located within the Downtown Core, the CRA or has historic or architectural significance.
5. Proximity of the proposed establishment to residential uses and zonings.

In the opinion of the city council, the granting of the modification will not materially impair the safety, health, morals, or general welfare of the citizens of the city which this chapter is intended to promote.

In consideration of the above, the City Commission may determine that buffers are necessary between the alcoholic beverage use and any adjoining residential district or protected land use in such a manner as to screen the adjoining property or properties from the alcoholic beverage use, without blocking access points. They may require the following buffers with the following standards:

- a. A six-foot-high fence as authorized under the Palmetto Fence Ordinance, or
- b. A landscape buffer with 2 canopy trees and 40 shrubs per 100 linear feet pursuant to Sec. 7-219 b. (1) of Article X.

Sec. 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.

Protected Land Uses. For the purposes of this Section, 'protected land use' means a school (pre-k through 12), house of worship or child care center that is legally established prior to the establishment of the applicable alcoholic beverage use. The term does not include a post secondary school.

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)

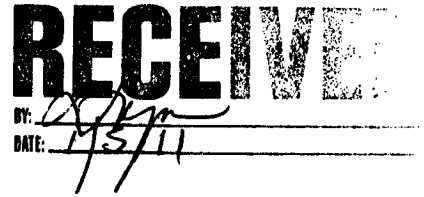
FOOTNOTE(S):

⁽¹⁰⁾ **Cross reference**— Administration, Ch. 2; minors prohibited from entering any poolroom or billiard room where alcoholic beverages are sold, § 5-46; licenses and business regulations, Ch. 19. [Back](#)

To: Planning and Zoning
600 17th Street West
Palmetto, FL 34221

January 4, 2011


Morning Breeze
Thai Fusion Restaurant
2808 10th St. W
Palmetto, FL 34221



Attn: Planning and Zoning Board
Ref: City Ordinance Chapter 4 - Alcoholic Beverages Sec 4-2
(b)

Presently, our restaurant is authorized to sell alcoholic beverages. However, they cannot be consumed on the premises. This rule was written in 1989 and does not make sense. We have been in business for years and many of our customers would like to have a beer or a glass of wine with their meal. Therefore, my request is to change Chapter 4, Sec. 4.2 (b) to allow consumption along with the sale of alcoholic beverages at our restaurant.

Thank you.


Khon (Tony) Supharat
Manager

Prepared by: Brad Buckley