

Chapter 3

ALCOHOLIC BEVERAGES*

* **Cross References:** Buildings and building regulations, Ch. 5; health and sanitation, Ch. 11; license and business regulations, Ch. 14; planning and development, Ch. 19; zoning, Ch. 27.

State Law References: Alcoholic Beverage Law, F.S. Ch. 561 et seq.

Sec. 3-1. Definitions.

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

Alcoholic beverages shall include all beverages containing more than one (1) percent of alcohol by weight.

Bar shall mean any place permitting the retailing and drinking of malt, vinous, or other alcoholic beverages, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtained for consumption on the premises, which is not classified as a nightclub, restaurant bar, restaurant entertainment facility, hotel bar, restaurant, banquet facility, golf course facility, small scale neighborhood tavern, or fraternal, charitable, or membership-only private club.

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

Consumption off the premises means the selling of beers, wines, etc., in the original 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 every kind, or the right to sell such beverages by the drink or bottle.

Hotel bar means a bar operated in connection with a hotel, motel, or apartment hotel of more than one hundred (100) hotel rooms or apartments, and operated by the same management, such bar being equipped with adequate and sanitary equipment. The sale of beers, wines and liquors shall be strictly incidental to the principal use as a hotel or motel. The sale of beers, wines and liquors shall be prohibited except during the time that the hotel or motel is actually engaged in and open to the public for operation of business. No signs of any kind shall be permitted to be exhibited or displayed to the outside, denoting that alcoholic beverages are obtainable therein.

Intoxicating beverages shall include all liquors, wines and beers containing more than three and two-tenths (3.2) percent of alcohol by weight.

Liquor means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials, or similar distilled alcoholic beverages, including all dilutions and mixtures of one (1) or more of the foregoing.

Nightclub means any commercial establishment that is not a restaurant but may serve food and beverages, and which is determined to be a nightclub by application of the factors set forth in this definition. (Clubhouses, recreation centers, or other buildings used primarily for social gatherings of members of condominiums, cooperatives, homeowner associations, civic, charitable or fraternal organizations which may periodically have dances, stage shows, or music, and alcoholic beverage consumption, and admission fees are not "commercial establishments".) If a commercial establishment could reasonably be classified as either a nightclub or as a restaurant entertainment facility, it shall be deemed a nightclub for purposes of this Code. If a commercial establishment could reasonably be classified as either a nightclub or some different use, it shall be deemed a nightclub for purposes of this Code. Although nightclubs are prohibited in the city, the use is being defined for regulatory purposes (i.e., the city may have nonconforming nightclub uses and the definitions are intended to be consistent with Chapter 3 definitions). In determining whether an establishment is a nightclub, the city shall consider the following factors:

- (1) If any one (1) of the following is answered in the affirmative, then the establishment is a nightclub:
 - a. Whether the establishment charges a cover charge, door charge, or one (1) time membership fee which is paid at the door; or,
 - b. Whether there is a minimum drink requirement.
- (2) If none of the factors listed in subsection (1) above are present, then if six (6) of the following are answered in the affirmative, then the establishment is a nightclub:
 - a. Whether there is a dance floor or other open area used by patrons for dancing;
 - b. Whether the hours of operations where the use is open to the public include time between 12:00 midnight and 8:00 a.m.;
 - c. Whether the maximum capacity for the establishment as established by the building official in light of various regulatory provisions is over two hundred (200) persons. [The fact that the facility may restrict its capacity to some number shall not prevent the building official from applying Code provisions that determine a different and increased capacity. The building official may use various Codes for this purpose (i.e., fire code provisions)];
 - d. Whether the establishment has a 4-COP liquor license;
 - e. Whether the establishment advertises as a nightclub or a cabaret;
 - f. Whether advertisements for the establishment routinely specify specific entertainment engagements (e.g. "Tony & Trio this Saturday and Sunday night"; special unlimited engagements; "Sally Jones sings tonight");
 - g. Whether the establishment has a stage show or has a stage or platform used in connection

with performances or entertainment;

- h. Whether the establishment has a high density area that exceeds ten (10) percent of gross square feet of floor area. The definition of high density area" is set forth within the definition of restaurant entertainment facility, below; or,
- i. Whether the establishment has an entertainment area that exceeds five (5) percent of gross floor area. The definition of "entertainment area" is set forth within the definition of restaurant entertainment facility, below.

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.

Restaurant means any establishment where the principal use is the service of food for consumption on the premises. Typically, complete meals are prepared on the premises and served at all times when the establishment is open, for pay and for consumption on the premises at tables with chairs, or booths, or both. There are three (3) kinds of restaurants which are defined in section 27-1, to-wit: fast food restaurants, high turnover sit-down restaurants, and low turnover sit-down restaurants. Restaurants may provide up to fifteen (15) percent of the restaurant or facility seating capacity at a counter located within the interior of the building.

Restaurant bar means a bar housed completely within a low turnover sit down restaurant or high turnover sit down restaurant or a banquet facility (as defined in section 27-721(67) of the Code of Ordinances), which bar and food service uses are both operated simultaneously and in conjunction with each other by the same owner, management or both. A restaurant bar must be designed and used primarily to support (i.e., be accessory to) the serving of full-course meals for consumption on the premises by the public in the restaurant or by patrons of a banquet facility. The restaurant bar's principal use is the service of full-course meals for consumption on premises by the public. A "full-course meal" for purposes of this section means that the service of food is provided in courses, including the availability for consumption of appetizers, salads, entrees accompanied by side dishes such as vegetables, rice, pasta or the like, desserts, nonalcoholic and alcoholic beverages, all of which are prepared on the premises by one (1) or more full-time preparers and served to patrons seated at tables, booths or both by waiters, waitresses or both. In order to have a restaurant bar, the restaurant or banquet facility must be designed, equipped and furnished to accommodate the sale and serving of full-course meals to at least two hundred (200) patrons seated at indoor tables, booths or both under the roof of an enclosed building at one time, and further, the restaurant or facility must provide a minimum gross floor area of fully enclosed space under roof of at least four thousand (4,000) square feet. Tables and booths must be continuously and uniformly distributed within the dining areas. The restaurant bar shall only serve or offer for sale alcoholic beverages at such times as food service is fully available. A restaurant bar may have up to five (5) percent of its gross floor area as entertainment areas so long as the restaurant maintains only a SRX restricted alcoholic beverage license as described in § 561.20(2)(a)4, Fla. Stat. (2003), as amended. The definition of "entertainment area" is set forth within the definition of restaurant entertainment facility, below.

Restaurant entertainment facility means a restaurant bar having either a high density area that exceeds ten (10) percent of its gross floor area or an entertainment area that exceeds five (5) percent of its gross floor area. Entertainment area means an area set aside for any one (1) or more, or any combination of the following: dancing, band, orchestra, disc jockey, stage show, or other form of musical or comedy entertainment. High

density areas means interior areas [exclusive of areas designed and actually used for kitchen, garbage, food storage, closet, bathrooms, behind the bar service areas, floor areas under tables and chairs, and areas designated for and used exclusively for dining (with such designation to be approved by the director of planning, zoning and economic development or his or her designee)] that could be used for waiting areas, standing areas, and aisles (including aisles around any dance floor or area). If a facility could reasonably be classified as either a restaurant entertainment facility or a restaurant bar, it shall be deemed a restaurant entertainment facility for purposes of this Code.

Small scale neighborhood tavern means a bar area and either a low turnover sit down restaurant or high turnover sit down restaurant area, which bar and food service uses are both operated simultaneously and in conjunction with each other by the same owner, management or both (as further restricted in section 27-721(89) of this Code), where the establishment may only offer for sale and consumption on premises beer and wine [using a 2-COP license]. The bar area in a small scale neighborhood tavern must be designed and used primarily to support (i.e., be accessory to) the serving of fullcourse meals for consumption on the premises by the public in the restaurant area. The small scale neighborhood tavern's principal use is the service of fullcourse meals for consumption on premises by the public. A "fullcourse meal" for purposes of this section means that the service of food is provided in courses, including the availability for consumption of appetizers, salads, entrees accompanied by side dishes such as vegetables, rice, pasta or the like, desserts, nonalcoholic and alcoholic beverages, all of which are prepared on the premises by one (1) or more fulltime preparers and served to patrons seated at tables, booths or both by waiters, waitresses or both. In order to have a small scale neighborhood tavern, the restaurant and bar areas must be designed, equipped and furnished to accommodate collectively the sale and serving of fullcourse meals to a minimum of sixty (60) and a maximum of eighty (80) patrons seated at indoor tables, booths, the bar, or some combination of the foregoing, and under the roof of an enclosed space or building at one time. Tables and booths must be continuously and uniformly distributed within the dining areas; however, fifty (50) percent of the seating must be located in the restaurant area. Beer and wine may only be offered for sale and consumption at such times as food service is fully available. A small scale neighborhood tavern may not contain any entertainment area. The definition of "entertainment area" is set forth within the definition of restaurant entertainment facility.

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

Wine means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe fruit, with the usual cellar treatment and necessary additions to correct defects due to climatic saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-four (24) percent by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced or as artificial or imitation wine.

(Code 1964, App. A, Art. XVIII, § 38(1); Ord. No. 2114, § 1, 1-8-97; Ord. No. 2181, § 1, 2-17-99; Ord. No. 2313, § 1, 3-10-2004; Ord. No. 2413, § 1, 7-23-2008)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 3-2. Proximity of similar type establishments.

(a) No license issued under state law pertaining to the sale or dispensing (or both) of distilled or rectified alcoholic spirits, hereafter referred to as "liquor," shall be issued to sell such liquor for consumption off the premises in any place of business located within one thousand (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 establishments by the one thousand-foot distance. No such license shall be issued during the period in which the existing license is renewable at such locations; provided, however, that the owner, by vested right of a license to do business within the prohibited area, may transfer his liquor license to a new owner doing business at the same location within the prohibited area. If the existing purveyor is separated from the similar subject licensed purveyor for which such license is requested by a public road right-of-way exceeding ninety-nine (99) feet in width, then such limitation of distance may be reduced to not less than five hundred (500) feet measured as provided in this subsection. There shall be no distance requirements or restriction for restaurants selling liquor. Nor shall there be any distance requirement or restriction for establishments selling malt or fermented alcoholic beverages (beer and wine) as an ancillary part of the main business of such establishment (e.g., grocery stores, drugstores, restaurants, etc.).

(b) Establishments located within a regional shopping center (which center is defined as a single-identifiable shopping community of business establishments lying within a parcel of land at least thirty (30) acres in size, having not less than eighty (80) separate establishments therein, containing a gross square footage of not less than six hundred thousand (600,000) square feet) are expressly excluded from the distance between establishments set forth in subsection (a) of this section.

(Code 1964, App. A, Art. XVIII, § 38(2); Ord. No. 1596, § 1, 1-11-89; Ord. No. 2129, § 1, 7-30-97)

Cross References: Planning and development, Ch. 19; subdivisions, § 20-86 et seq.; zoning, Ch. 27.

Sec. 3-3. Proximity of establishments to houses of worship, schools, hospitals, parks, and child care centers.

(a) No license issued under state laws pertaining to the sale or dispensing (or both) of alcoholic beverages, including beer and wine, shall be issued to any person or business entity at any location within five hundred (500) feet [one thousand (1,000) feet if a package store] by airline measurement from any established house of worship, hospital, park, child care center, or school, measured from the main entrance of such house or worship, hospital, park, child care center, or school to the main entrance of the proposed location. However, if the house of worship, hospital, park, child care center, or school is separated from the subject establishment for which such license is requested by a public road right-of-way exceeding ninety-nine (99) feet in width, then such distance separation requirement may be reduced to not less than two hundred fifty (250) feet [five hundred (500) feet if a package store], measured as provided in this subsection. A grocery store, a drugstore, or a restaurant which restaurant does not have a restaurant bar or restaurant entertainment facilities), or a hotel or motel (excluding those which have a hotel bar) shall not be subject to the above distance separation requirement. Similarly, a package store which is an adjunct to a grocery store or drugstore shall not be subject to the above distance separation requirement. [For purposes of the preceding sentence, "an adjunct" shall mean that the drug store (or grocery store) and package store are owned and operated by the same owner, the package store is twenty-five (25) percent or less of the gross square feet of the drug store (or grocery store), and where at all times that the package store is open, the drug store (or grocery store) is open.] This section shall not apply to restrict the sale or dispensing (or both) of alcoholic beverages in any establishments in existence and in lawful operation prior to February 23, 1999, and shall not apply to temporary licenses issued for special community events in public parks which are sponsored by a charitable, civic, or fraternal organization and where security is present at the event.

(b) For the purpose of this section, a school shall be defined as any educational institution or organization with children as pupils for instructional purposes, ages six (6) to nineteen (19) years, in which a full program of educational study is offered in the grade categories of kindergarten through the twelfth year. It

shall not include special or limited purpose training institutions not offering a full program of education in grade categories.

(Code 1964, App. A, Art. XVIII, § 38(3); Ord. No. 2129, § 2, 7-30-97; Ord. No. 2181, § 2, 2-17-99; Ord. No. 2201, § 1, 9-29-99; Ord. No. 2313, § 2, 3-10-2004)

Cross References: Licenses and business regulations, Ch. 14; subdivisions, § 20-86 et seq.; planning and development, Ch. 19; zoning, Ch. 27.

Sec. 3-4. Proximity of houses of worship, schools, hospitals, parks, and child care centers to establishments.

It shall be unlawful for any child care center, house of worship, hospital, park or school to operate at a location or in a building closer to a location for or on which a person or business entity has or utilizes a license issued under state laws pertaining to the sale or dispensing (or both) of alcoholic beverages (including beer and wine) than the distance such person or business entity is required to be from a school, house of worship, hospital, park, or child care center as set out in section 3-3. This section shall not apply to such child care centers, houses of worship, hospitals, parks or schools in existence and in lawful operation prior to February 23, 1999.

(Code 1964, § 7-2; Ord. No. 2138, § 1, 10-8-97; Ord. No. 2181, § 3, 2-17-99; Ord. No. 2313, § 3, 3-10-2004)

Cross References: Buildings and building regulations, Ch. 5; licenses and business regulations, Ch. 14; planning and development, Ch. 19; subdivisions, § 20-86 et seq.; zoning, Ch. 27.

State Law References: Child care facilities, F.S. § 402.301 et seq., Laws of Fla. Ch. 74-447.

Sec. 3-5. Dispersal requirements.

(a) One (1), but not more than one (1), package store shall be permitted in a B-1P neighborhood business district, or in a shopping center containing at least five (5) acres in a B-3P district. This limitation shall be without regard to its location in relation to other uses as described in sections 3-2, 3-3 and 3-4 of this Code.

(b) One (1), but not more than one (1), small scale neighborhood tavern shall be permitted in a B-2P district within one thousand (1,000) feet of any other small scale neighborhood tavern. This limitation shall be without regard to its location in relation to other uses as described in sections 3-2, 3-3 and 3-4 of this Code.

(Code 1964, App. A, Art. XVIII, § 27; Ord. No. 2413, § 2, 7-23-2008)

Editors Note: Ord. No. 2413, adopted July 23, 2008, changed the title of § 3-5 from number of establishments limited in B-1P and B-3P districts to dispersal requirements.

Sec. 3-6. Intoxicated persons loitering about licensed premises.

It shall be unlawful for any intoxicated person to loiter in and about the premises used or occupied by any licensee licensed under the state laws pertaining to the sale and dispensing of alcoholic beverages, including beer and wine. It shall be the duty of the operator to remove such intoxicated persons from the premises.

(Code 1964, App. A, Art. XVIII, § 38(9))

Sec. 3-7. Furnishing setups, etc., when not licensed for 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 services to any person for the purpose of consuming liquor in, at or upon the licensed premises.

(Code 1964, App. A, Art. XVIII, § 38(10))

Sec. 3-8. Prohibited acts.

(a) *Vendor or distributor committing unlawful act on premises.* 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 and dispensing of alcoholic beverages, including beer and wine.

(b) *Use of licensed premises for immoral or criminal purposes.* No licensee licensed under the state laws pertaining to the sale and dispensing of alcoholic beverages, including beer and wine, shall permit the premises to be used for any immoral, improper or criminal purposes, nor shall they permit persons of known immoral, improper or criminal habits to frequent, loiter or assemble on the premises or in the entrance thereto.

(c) No vendor licensed under the laws pertaining to the sale and dispensing of alcoholic beverages, including beer and wine, who is licensed to sell liquor to be consumed upon the premises shall sell any alcoholic beverage unless the sale occurs in a nightclub, restaurant bar, restaurant entertainment facility, hotel bar, restaurant, banquet facility, golf course facility, or fraternal, charitable, or membership-only private club (as controlled and defined in § 61A-3.019, F.A.C.).

(Code 1964, App. A, Art. XVIII, § 38(11), (12); Ord. No. 2181, § 4, 2-17-99)

Sec. 3-9. Hours sale prohibited.

(a) *Consumption off 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 weekdays between the hours of 4:00 a.m. and 7:00 a.m., and on Sundays between the hours of 4:00 a.m. and 8:00 a.m., provided, however, that on Christmas Day and Easter Sunday the prohibited hours of sale or offering for sale extend from 4:00 a.m. until 12:00 noon.

(b) *Consumption on premises.* No vendor licensed 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 weekday between the hours of 4:00 a.m. and 7:00 a.m., or on Sundays between the hours of 4:00 a.m. and 8:00 a.m.; provided, however, that on Christmas Day and Easter Sunday no vendor licensed, 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, between the hours of 4:00 a.m. and 12:00 noon.

(c) Notwithstanding subsection (a) above, no establishment which is classified as a restaurant entertainment facility, small scale neighborhood tavern or nightclub under the provisions of this chapter 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 said establishment, any liquors, beers or wines, regardless of alcoholic content, any day between the hours of 2:00 a.m. and 8:00 a.m.; provided, however, that on Christmas Day and Easter Sunday, no vendor licensed, 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, between the hours of 2:00 a.m. and 12:00 noon.

(Ord. No. 2313, § 4, 3-10-2004; Ord. No. 2413, § 3, 7-23-2008)

Sec. 3-10. Security for nightclubs.

(a) Nightclubs shall provide security by hiring law enforcement officers with arrest powers within the city, such law enforcement personnel commencing service at 10:00 p.m. each evening the establishment is open to the public later than 10:00 p.m. and ending one (1) hour after closing of said facilities. Nightclubs shall be required to employ one (1) law enforcement officer for each one hundred fifty (150) persons or any portion thereof of the maximum capacity of the premises as determined by the building official. Plantation police officers will be preferred since they are familiar with the facilities, areas around the facilities, city law, and the methods and procedures by which the city can dispatch any needed law enforcement, fire, or emergency services personnel. The Plantation Police Department shall be advised one (1) week in advance which law enforcement agency will be providing security on each night and the name of the law enforcement officer providing same. As an alternative to law enforcement security as required above, the police chief may allow the establishment to employ state licensed, uniformed, armed private security. The private security personnel shall not initially be required to carry firearms, but the police chief may require that such security carry firearms if the police chief determines that firearms are reasonably necessary, given previous occurrences at or around the nightclub, age of patrons, and hours of operation. Since private security personnel do not have powers of arrest as do law enforcement personnel, the police chief may require more private security personnel than would result by using the law enforcement officer ratios set forth above.

(b) The law enforcement agencies providing the security required shall be designated by the owner (or lessee as appropriate) of the property on which the nightclub is situated as an authorized person to enforce trespass violations as set forth in Chapter 810, Florida Statutes, and a sign shall be prominently posted near the entrances to the building which advises the visiting public that such law enforcement agencies can enforce trespass violations, and further, that anyone (except the establishment's employees or persons performing maintenance or other necessary services to the establishment [such as, for example, custodial, food and beverage delivery, solid waste removal or utilities services]) within the building or on the premises (i.e. parking lots, driveways, landscape areas) between one (1) hour after the establishment's closing and two (2) hours before the establishment's next opening are not authorized, invited, or licensed to be within the building or on the premises.

(c) Restaurant entertainment facilities and nightclubs shall provide exterior lighting of a minimum illumination of two (2) footcandles throughout the parking area. Lighting fixtures shall be shielded, angled, or both, such that direct or indirect light shall not cause illumination of 0.5 footcandles on any residential property surrounding the parking facility.

(Ord. No. 2181, § 5, 2-17-99; Ord. No. 2313, § 5, 3-10-2004)

Sec. 3-11. Screens, partitions, doors and obstructions on premises.

No wholesale or retail liquor dealer licensed under the state laws pertaining to the sale and dispensing of alcoholic beverages, including beer and wine, shall permit or allow on his premises, where such liquor or alcoholic beverages are sold:

- (1) Any screen, blind, curtain, partition, article or thing in the windows or upon the doors which shall prevent a clear view into the interior of such premises from the sidewalk at all times;
- (2) Any boot, screen, partition or other obstruction in the interior of such premises, totally obstructing the view;
- (3) Any saloon swinging entrance doors;
- (4) Any opening or means of entrance or passageway for persons or things between such premises and any other room or place in the building containing such premises, or any adjoining or abutting premises. All glass in any windows or doors on such premises shall be clear and shall not be opaque, colored, stained or frosted. This shall not be construed to mean openings into dining rooms, kitchen, toilet or other legitimate connecting rooms.

(Code 1964, App. A, Art. XVIII, § 38(14))

Cross References: Buildings and building regulations, Ch. 5.

Sec. 3-12. Consuming on streets or in public places.

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 public place, unless such place is licensed by the city for the sale of alcoholic beverages.

(Code 1964, § 17-1)