

EXHIBIT A

ALCOHOLIC BEVERAGE, SPECIAL EXCEPTION

Sec. 3-1. - Definitions.

Terms, when used in this chapter, shall have the following meanings:

Accessory alcoholic beverage sales (package) means a commercial activity involving the sale of alcoholic beverages for on- or off-premises consumption where alcoholic sales are incidental to the other retail sales commodities.

Alcoholic beverage establishment shall mean any establishment devoted primarily to the retail sale of alcoholic beverages for consumption on-and/or off-premises.

Alcoholic beverages shall mean all drinks and beverages containing more than one (1) percent alcohol by weight.

Bar shall mean a commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on-premises and in which service of food is only incidental to the consumption of such beverages. Bars include taverns, nightclubs, lounges, private clubs, bottle clubs and similar facilities serving alcoholic liquor and that meet any of the following criteria:

- (a) The bar service area is in excess of fifteen (15) percent of the gross floor area;
- (b) The kitchen is less than fifteen (15) percent of the gross floor area;
- (c) Age verification is requested at admittance;
- (d) A cover charge is required for admittance, except for special events as permitted through special exception;
- (e) Less than forty (40) percent of gross revenues are derived from the sale of prepared food;
- (f) The business remains open and liquor sales continue but the full kitchen closes before 9:00 p.m.

Bar service area includes the floor areas under indoor and outdoor bar counter tops and the floor area behind the bar counter tops used for the storage, preparation and serving of alcoholic beverages.

Liquor store shall mean any business selling general alcoholic beverages, also known as sale of distilled spirits or hard liquor, for off-premises consumption. This shall not be interpreted to include establishments primarily engaged in selling prepared foods or drinks for consumption on the premises or retail sales establishments wherein the sale of alcoholic beverages for consumption off-site is clearly incidental to other retail sales commodities.

Public place shall mean any location frequented by the public or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to: streets; sidewalks; parks; forest; lakes; business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement); bottle club; hotel; motel; restaurant; night clubs; adult cabaret; meeting facilities utilized by any religious, social, fraternal or similar organization; business, commercial or other establishment.

~~Premises, or portions thereof such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.~~

(Ord. No. 2001-04, § 1, 2-8-01; Ord. No. 2006-44, § I, 1-11-07; Ord. No. 2008-04, § I, 4-10-08)

Sec. 3-2. - Alcoholic consumption on city property prohibited.

No person shall consume alcoholic beverages on any property of the city, including public streets or sidewalks.

Exceptions:

- (1) Alcoholic beverages may be consumed within the LaBelle Civic Center in accordance with restrictions established by the city commission and approval of a special exception.
- (2) Special events on all other city property to serve, sell or consume alcoholic beverages may be permitted by the city commission.

(Ord. No. 2001-04, § 1, 2-8-01; Ord. No. 2006-44, § I, 1-11-07; Ord. No. 2008-04, § I, 4-10-08)

Cross reference— Buildings and building regulations, Ch. 5; housing, Ch. 9; licenses and business regulations, Ch. 11; streets, sidewalks and other public places, Ch. 14; subdivisions, Ch. 15; traffic, Ch. 17; zoning, Ch. 19; possession of alcoholic beverages during state of emergency, § 20-4(b)(2).

Sec. 3-3. - Prohibited hours.

It shall be unlawful for any person to sell to or to consume or to permit the consumption of any alcoholic beverage on the premises of any business or club open to the public, which business or club caters to or allows the consumption of alcoholic beverages, between the hours of 2:00 a.m. and 5:30 a.m.

Within this section, the term "premises" shall mean the physical facilities, improvements, or buildings where the business or club is located and conducted, and any parking lot or other real property available to the business or club. As used herein, the terms "business" and "club" shall mean any place operated for profit which is open to the public or to which the public is invited. The provisions of this section shall apply whether or not such premises hold a valid beverage license.

Pursuant to F.S. § 562.14(1), the board of city commissioners, in this chapter and section, establishes and prescribes the only hours during which alcoholic beverages may be purchased, sold, served, or consumed, or permitted to be served or consumed, at establishments located within the incorporated areas of the city and holding a beverage license under the laws of Florida.

(Ord. No. 2001-04, § 1, 2-8-01; Ord. No. 2006-44, § I, 1-11-07; Ord. No. 2012-05, § 1, 11-8-12)

Cross reference— Licenses and business regulations, Ch. 11.

Sec. 3-4. - ~~Consumption on premises, location restricted.~~ Alcoholic Beverage Establishments, On-Premise Consumption, Location Restricted

~~It is hereby expressly prohibited and made unlawful for establishments devoted primarily to the retail sale of alcoholic beverages for consumption on premises, to be located seven hundred fifty~~

~~(750) feet or less from any church or school. This includes but is not limited to nightclubs, taverns, bars and lounges.~~

- A. Alcoholic Beverage Establishments (Establishment) are prohibited within seven hundred and fifty (750) feet of a church or school, unless a special exception allowing such use is first obtained from the City Commission. The seven hundred and fifty (750) feet requirement within which a special exception is required hereunder shall be measured by a straight line from the main entrance of the establishment desiring to have on-premise consumption of alcoholic beverages and the nearest property line of the church or school.
- B. The City Commission will consider each application for a special exception permit and shall approve issuance of the permit upon making the following findings, in addition to findings required by LDC Appendix B, Section 4-41(b)(5):
 - 1. The proposed Establishment is located in a zoning district in which the Establishment is a permitted use;
 - 2. The proposed Establishment will not contribute to an undue concentration of alcohol establishments in the area;
 - 3. The proposed Establishment will not detrimentally affect nearby neighborhoods considering the distance of the Establishment to residential buildings, churches, schools, hospitals, playgrounds, parks and other existing Establishments;
 - 4. The proposed Establishment will otherwise be compatible with existing and potential uses of the surrounding area; and
 - 5. The proposed Establishment is not located in what has been determined to be a high-crime area, or where a disproportionate number of law enforcement calls occur.
- C. When approving a special exception for an Alcoholic Beverage Establishment, the City Commission may also issue the approval subject to additional conditions that the Commission determines to be necessary or desirable, to insure the particular use authorized by the permit will be established, operated, and maintained in accordance with the findings established above, including but not limited design conditions that:
 - 1. Require the exterior area of the premise and adjoining parking lots to be illuminated in a manner that provides adequate lighting for Establishment patrons while not disturbing surrounding residential and commercial areas;
 - 2. Require trash receptacles that are placed at convenient locations both within and outside the Establishment and that are emptied on a daily basis;
 - 3. Prohibit fixtures or furnishings that encourage loitering or nuisance behavior;
 - 4. Reduce opportunities for patrons to congregate and obstruct neighboring properties and public rights-of-way; and
 - 5. Otherwise maximize opportunities for surveillance and control of the premises and areas around the perimeter of the premises.

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(Ord. No. 2001-04, § 1, 2-8-01; Ord. No. 2006-44, § I, 1-11-07)

Cross reference— Buildings and building regulations, Ch. 5; licenses and business regulations, Ch. 11; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 19; Appendix B, Chapter 4, Article III, Section 4-41.

Sec. 3-5. - Enforcement and penalties.

- (a) The violation of the provisions of this chapter shall be punished by a fine as follows:
- (1) First offense: \$250.00;
 - (2) Each additional offense: \$500.00.
- (b) Each day a violation of any provision of this chapter shall continue shall constitute a subsequent offense, and each act in violation of the provisions of this chapter shall be considered a separate and distinct offense.
- (c) Payment of fines levied hereunder does not obviate the duty to cure a violation of this chapter.
- (d) In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 2001-04, § 1, 2-8-01; Ord. No. 2006-44, § I, 1-11-07)

Sec. 3-6. - Injunctive relief.

In addition to the procedures provided herein, entities that are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

(Ord. No. 2001-04, § 1, 2-8-01)

Sec. 3-7. - Territory embraced.

All territory within the legal boundaries of the City of LaBelle, as they may be changed from time to time, shall be embraced by the provisions of this chapter.

(Ord. No. 2001-04, § 1, 2-8-01)