

DIVISION 6. ALCOHOLIC BEVERAGES¹

Sec. 110-526. Definitions.

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

Alcoholic beverage means the same as defined in Florida Statutes § 561.01 (2001).

Beer means the same as defined in Florida Statutes § 563.01 (2001).

Establishment means a building or other structure within which business is conducted on a regular basis.

Liquor means the same as defined in Florida Statutes § 565.01 (2001).

Sale of alcoholic beverages means both sale for the purpose of on the premises consumption and package sales unless the context clearly indicates otherwise.

Wine means the same as defined in Florida Statutes § 564.01 (2001).

(Code 1983, § 20-1202; Ord. No. 972, § 3, 9-24-02)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 110-527. Classifications.

- (a) *Package store, beer and wine.* A package store, beer and wine, is an establishment where beer and wine are sold in sealed containers only for consumption off the premises.
- (b) *Retail store, beer and wine.* A retail store, beer and wine, is an establishment where beer and wine are sold in sealed containers only for consumption off the premises and more than 50 percent of the establishment's gross sales are attributable to the sale of nonalcoholic items.
- (c) *Package store, beer, wine and liquor.* A package store, beer, wine and liquor, is an establishment where beer, wine and liquor are sold in sealed containers only for consumption off the premises.
- (d) *Restaurants.* A restaurant is an establishment where beer, or beer and wine, or beer, wine and liquor are sold for consumption on the premises, or for consumption on the premises and package sales, in connection with a restaurant business wherein the combined gross sales of the business operation are more than 60 percent attributable to the sale of food and nonalcoholic items.
- (e) *Bar.* A bar is an establishment where beer, or beer and wine, or beer, wine and liquor are sold for consumption on the premises, or for consumption on the premises and package sales.
- (f) *Club.* A club is an establishment which is a chartered club where beer, wine and liquor are sold or offered to members for consumption on the premises only and such beer, wine and liquor cannot be sold over the counter to nonclub members.

¹Cross reference(s)—Conformity of alcoholic beverage regulations with zoning code, § 6-5.

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- (g) *Charter boats.* A charter boat is a vessel primarily engaged in the business of taking passengers for hire where beer, or beer and wine, or beer, wine and liquor are sold for consumption while the vessel is engaged in the transportation of passengers and more than 50 percent of the business income is derived from the sale of nonalcoholic items or the transportation of passengers.

(Code 1983, § 20-1203; Ord. No. 972, § 3, 9-24-02)

Sec. 110-528. Prohibition.

No premises shall be used, nor a use or occupancy permit issued for the sale of alcoholic beverages, for package sales, or for on the premises consumption, unless approved by the board of commissioners pursuant to the provisions of the land development regulations. All applications under the land development regulations shall be considered at a regular meeting of the board of commissioners.

(Code 1983, § 20-1201; Ord. No. 972, § 3, 9-24-02)

Sec. 110-529. Conformity with city zoning code.

- (a) No application for permission to use premises for the sale of alcoholic beverages shall be granted unless the property which is subject to the application is within a zoning district under the city zoning code which permits such uses.
- (b) No application for permission to use vessels for the sale of alcoholic beverages shall be granted unless the property to which the boat is docked and from which it boards and unloads passengers is within a zoning district under the city zoning code which permits such use.

(Code 1983, § 20-1204; Ord. No. 972, § 3, 9-24-02)

Sec. 110-530. Alcoholic beverage districts, restrictions and distance requirements.

- (a) *R-1 and R-2 districts.* No premises shall be used, nor shall a use and occupancy permit be issued for the sale of alcoholic beverages in any district zoned R-1 or R-2 within the city.
- (b) *R-3 districts.* Only restaurant establishments as defined in section 110-527 shall be allowed in any district zoned R-3 within the city.
- (c) *C-1, C-2, C-3, and C-4 districts.*
- (1) *Classifications permitted.* Package stores (beer and wine, retail stores (beer and wine), package stores (beer, wine and liquor), restaurants, bars and clubs shall be permitted in any district zoned C-1, C-2, C-3 or C-4 within the city.
 - (2) *Distance requirements.* Except as otherwise provided, no establishment classified as a package store (beer and wine), package store (beer, wine and liquor), club or a bar shall be located within 300 feet of property occupied by an established church, synagogue, temple or place of religious worship, public or private school operated for the instruction of minors, or youth recreation (community) center. The distance provisions shall not apply to restaurants. Further the distance provision shall not apply to bars or clubs within a hotel of 50 rooms or more.
 - (3) *Measurement of distance.* The distance set forth in subsection (2) of this section shall be a straight line distance from the property line occupied by the enumerated uses in subsection (2) of this section and the property line to be occupied by the establishment applying for permission to sell alcoholic beverages.

(Code 1983, § 20-1205; Ord. No. 972, § 3, 9-24-02)

Sec. 110-531. Application for zoning of lot for sale of alcoholic beverages.

Whenever any owner, lessee or tenant desires to have any lot, plot or tract of land zoned for the sale of alcoholic beverages, such person shall complete and file their application form with the city manager or his designate, which application shall contain the following:

- (1) The name and address of the applicant, and the owner's written approval if property ownership is other than the applicant. The name and address of the owner of the alcoholic beverage license, if any.
- (2) The legal description or survey of property describing the portion of the lot, plot or tract of land to be utilized for the sale of alcoholic beverages.
- (3) A site plan shall be submitted with the application which shall show the proposed building location, size and height, off-street parking facilities and ingress and egress from adjoining streets. The applicant shall also submit a frontal (street side) elevation or an architectural rendering or recent photograph of the main structure.
- (4) A signed certificate and drawing prepared by a state registered engineer or land surveyor depicting the location of an established church, synagogue, temple or place of religious worship, public or private school operated for the instruction of minors, and youth recreation (community) centers within 500 feet. The drawing shall carry the following certification:

"This is to certify that all the measurements are in compliance with the provisions of this Code and are true and accurate portrayals of all actual distances."

This requirement shall also apply only to package stores (beer and wine), package stores (beer, wine and liquor), clubs, and bars.
- (5) The alcoholic beverage classification desired for the lot, plot or tract shall be one of the classifications set forth in section 110-527.
- (6) Payment of the non-refundable application fee listed in the fees and collection procedure manual.
- (7) At the time of application, the applicant shall address in writing the five factors enumerated in section 110-532.

(Code 1983, § 20-1206; Ord. No. 972, § 3, 9-24-02; Ord. No. 2023-10 , § 1, 6-14-23)

Sec. 110-532. Consideration of alcoholic beverage application.

When considering the alcoholic beverage application, the board of commissioners shall consider the following factors:

- (1) The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.
- (2) The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.
- (3) Whether or not the proposed use is compatible with the particular location for which it is proposed.
- (4) Whether or not the proposed use will adversely affect the public safety.

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- (5) No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.

(Code 1983, § 20-1207; Ord. No. 972, § 3, 9-24-02)

Sec. 110-533. Reconsideration of alcoholic beverage zoning.

- (a) A similar application for alcoholic beverage zoning denied by the board of commissioners shall not be resubmitted for reconsideration by the board of commissioners within 12 months of the date of the final action on the previous application unless the applicant demonstrates to the board of commissioners that substantial changes have occurred in the property or in the area adjacent to the subject site which would have a bearing on the consideration of the alcoholic beverage zoning of the site.
- (b) In the event any applicant shall desire reconsideration under subsection (a) of this section, the applicant shall submit his application for such alcoholic beverage zoning to the city manager or his designate in the usual manner and pay the application fee listed in the fees and collection procedure manual. If, in the judgment of the board of commissioners, substantial changes have occurred, the board of commissioners shall then set the application for public hearing. In the event of a negative finding by the board of commissioners, the application will not be heard.
- (c) An application for alcoholic beverage zoning of lesser intensity will not be deemed a similar application as stated in subsection (a) of this section and such application can be made at any time.

(Code 1983, § 20-1208; Ord. No. 972, § 3, 9-24-02; Ord. No. 2023-10 , § 2, 6-14-23)

Sec. 110-534. Change of alcoholic beverage zoning.

- (a) Properties that are alcoholic beverage zoned cannot change the alcoholic beverage classification to a license providing greater intensity nor provide a change in the nature or use of the property to a different alcoholic zoning classification, nor enlarge the area for the sale of alcoholic beverages without filing a new petition for alcoholic beverage zoning with the board of commissioners in accordance with the requirements contained in this division.
- (b) The city manager or his designee may approve, approve with conditions, or deny alcoholic beverage zoned classification that provides for an alcoholic beverage license of lesser intensity or a reduction in the area used for the sale of alcoholic beverages; when the business establishment already holds an alcoholic beverage license approved by the board of commissioners. The city manager or his designee shall consider the following factors in the decision:
 - (1) The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.
 - (2) The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.
 - (3) Whether or not the proposed use is compatible with the particular location for which it is proposed.
 - (4) Whether or not the proposed use will adversely affect the public safety.
 - (5) No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.

If the requesting party is in disagreement with the decision reached by the city manager or his designee, an appeal to the board of commissioners is available; and board of commissioners' decision shall be binding.

(Code 1983, § 20-1209; Ord. No. 972, § 3, 9-24-02)

Sec. 110-535. Expansion of alcoholic beverage zoning.

Properties that are alcoholic beverage zoned cannot be expanded more than ten percent over the original approved square footage without filing a new petition for alcoholic beverage zoning in accordance with the requirements contained in this division.

(Code 1983, § 20-1210; Ord. No. 972, § 3, 9-24-02)

Sec. 110-536. Existing wet zone of properties.

Properties on which the sale of intoxicating beverages is permitted under any ordinance of the city existing on the effective date of the ordinance from which the land development regulations derived and which become nonconforming uses by the Code shall be subject to the provisions of the land development regulations pertaining to nonconforming uses.

(Code 1983, § 20-1211; Ord. No. 972, § 3, 9-24-02)

Sec. 110-537. Revocation of alcoholic beverage zoning.

Any alcoholic beverage zoning may be revoked by the board of commissioners upon finding a violation of the land development regulations, loss of state license, or the failure to conduct the sale of alcoholic beverages for any six-month period as demonstrated by not having a valid city occupational license for such use during this 6 month period. Any such action shall only be taken after conducting a hearing in the same manner as for the original application. In addition, affected property owners and/or operators shall be notified by certified mail, return receipt requested, which shall be transmitted at least 15 days prior to the scheduled public hearing date.

(Code 1983, § 20-1212; Ord. No. 972, § 3, 9-24-02)

Sec. 110-538. Record keeping and reporting requirements.

Establishments classified as retail stores (beer and wine) or restaurants shall maintain books and records reflecting the gross sale of food and nonalcoholic items and the gross sale of alcoholic beverages and shall provide such books and records to the city within 30 days upon request. Failure to keep the books and records required in this section shall be adequate grounds for the board of commissioners to revoke the alcoholic beverage zoning classification of the property upon which the business operates.

(Code 1983, § 20-1213; Ord. No. 972, § 3, 9-24-02)

Sec. 110-539. Application processing and fees.

- (a) When and at such time as the application has been accepted, the city clerk shall notify abutting property owners within 300 feet of the property, setting forth the time, date and place of the application consideration by the board of commissioners. This notice will be 15 days prior to the regular meeting of the board of commissioners. Notice shall also be posted on the property itself in the same manner. Failure to notify all of the abutting property owners as shown on the records of the county property appraiser office

shall not constitute grounds for re-advertising, conducting additional meetings, and shall not affect any action or proceeding on the application for alcoholic beverage sales.

- (b) The city manager is authorized to charge the application fee listed in the fees and collection procedure manual for processing the application.

(Code 1983, § 20-1214; Ord. No. 972, § 3, 9-24-02; Ord. No. 2023-10 , § 3, 6-14-23)

Sec. 110-540. Grandfathering business establishments engaged in the sale of alcoholic beverages.

- (a) The business establishments engaged in the sale of alcoholic beverages, or for which applications have been filed with the city for permits to engage in the sale of alcoholic beverages, in areas permitted by ordinances existing at the time of the passage of the ordinance from which this chapter is derived where such areas or business establishments do not meet the qualifications of section 110-530 shall be such areas or business established and to continue so long as the occupational license is renewed for each fiscal year (October 1 through September 30) and the state alcoholic beverage license is renewed on a continuous basis from the time of initial approval of the license.
- (b) Nothing contained in this section shall be construed to allow any establishment holding a license prior to adoption of the ordinance from which this chapter is derived to change the type of license without meeting all ordinance requirements in effect at the time of the application for a new type of license.

(Ord. No. 972, § 3, 9-24-02)

Secs. 110-541—110-555. Reserved.