

Chapter 6 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

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Cross reference— Businesses, ch. 18; outdoor seating serving alcoholic beverages, § 110-405.

State Law reference— Alcoholic beverage law, F.S. ch. 561 et seq.

ARTICLE I. - IN GENERAL

Sec. 6-1. - 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 means distilled spirits and all beverages containing one-half of one percent or more alcohol by volume. The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though the remainder ingredients were distilled water.

Church means a place where persons regularly assemble for religious instruction.

Club means a group of persons associated together as a duly chartered or incorporated club. Such bona fide chartered or incorporated clubs at the time of their application for a license to sell alcoholic beverages shall have been in continuous active existence and operation for a period not less than two years in the city.

Establishment dealing in alcoholic beverages means any business or establishment licensed by the state for the sale of any alcoholic beverages.

Premises means that portion of the property where the licensed activity is to take place.

Restaurant means an establishment having necessary equipment to cook, prepare and serve full-course meals.

School means a place of instruction or education, whether maintained at public or private expense.

Vendor, manufacturer and distributor shall be defined as they are defined by F.S. §§ 561.01—568.14.

(Code 1980, § 2A-2; Code 1989, § 3-1)

Cross reference— Definitions generally, § 1-2.

Sec. 6-2. - Purpose of chapter.

This chapter is enacted to provide uniform regulations pursuant to the authority granted by F.S. § 562.45(2) for all establishments in the city dealing directly or indirectly with the sale or consumption of alcoholic beverages, and this chapter shall be construed to effectuate this purpose.

(Code 1980, § 2A-1; Code 1989, § 3-2)

Sec. 6-3. - Hours of sale.

(a) *Generally.*

- (1) All establishments in the city dealing in alcoholic beverages, public or private, either directly or indirectly, shall remain closed from the hours of 2:00 a.m. to 8:00 a.m. on each day of the week.
 - (2) Nothing contained in this section shall be construed to prevent a vendor of any establishment dealing in alcoholic beverages, or firefighters or law enforcement officers (in performance of their duties) from entering, being or remaining in such establishment and engaged in duties other than the sale or serving of alcoholic beverages.
- (b) *Exceptions.*
- (1) Establishments licensed under F.S. §§ 563.02(1)(a), 564.02(1)(a) and 565.02(1)(a) for package sales only are specifically included in the provisions of this section with the exception that such establishments shall not dispense:
 - a. Beer or wine between the hours of 12:00 midnight and 8:00 a.m.; or
 - b. Liquor between the hours of 12:00 midnight and 8:00 a.m.
 - (2) Drugstores or prescription shops dealing only in medicine and drugs dispensed for medical purposes are excepted from this section.
- (c) This subsection shall be construed to specifically and intentionally opt out of the portion of the Pinellas Countywide ordinance which extended the hours of sale until 3:00 a.m.

(Code 1980, § 2A-7; Code 1989, § 3-10; Ord. No. 2003-23, § 1, 11-25-2003; Ord. No. 2010-18, § 1, 11-9-2010; Ord. No. 2017-04, § 1, 6-13-2017)

State Law reference— Authority to regulate hours of sale, F.S. § 562.45(2)(a).

Sec. 6-4. - Possession and consumption prohibited in certain places; open containers; bottle clubs.

- (a) It shall be unlawful for anyone who sells or causes to be sold any alcoholic beverages to allow such beverages to be consumed on the premises where the alcoholic beverages are sold or on any other premises under the control, whether directly or indirectly, of the licensee, except within the area which is licensed for such sales. A licensee who also sells food for consumption on the premises may designate an outside area for the consumption of food and alcoholic beverages.
- (b) It shall be unlawful for anyone to consume any intoxicating liquors, wines or beer on the premises where alcoholic beverages are sold or on any other premises under the control, either directly or indirectly, of the licensee, except within the area which is licensed for such sales or in an area designated for outside consumption of food and beverages by a licensee who also sells food for consumption on the premises.
- (c) It shall be unlawful for anyone to consume any alcoholic beverages off licensed premises within 500 feet thereof, except within enclosed buildings or on premises occupied solely by residential structures. The distance set forth in this subsection shall be measured by following a straight line from that portion of any structure licensed for dealing in alcoholic beverages nearest to the place of violation of this subsection.
- (d) It shall be unlawful for any person to sell, serve, dispense, use, consume or drink any alcoholic beverage, or to possess any opened or unsealed container containing any alcoholic beverage, within the following places:
 - (1) On or in any public beach. A person is on or in a public beach when such person is walking or physically located on the sand area composing the beach or is within or upon a vehicle or any other form of conveyance.
 - (2) On or in any street, alley, sidewalk, parking lot or right-of-way. A person walking, standing or otherwise physically located within the places enumerated in this subsection, or a person within

or upon any vehicle or other form of conveyance, shall be considered a person on or in any street, alley, sidewalk, parking lot or right-of-way.

- (3) On or in any street end fronting on the Gulf of Mexico in the city. A person walking, standing or otherwise physically located within the area designated in this subsection, or a person within or upon any vehicle or other form of conveyance, shall be considered a person on or in any street end fronting on the Gulf of Mexico in the city.
 - (4) On or in any public park in the city. For the purposes of this section, the term "park" shall be construed to mean all dedicated parks and athletic fields, and all grounds used by the city for park or playground purposes. A person walking, standing, or otherwise physically located within the area designated in this subsection, or a person located in or upon any vehicle or other form of conveyance, shall be considered a person on or in any public park in the city.
 - (5) On or in the exterior doorways and entrances to all buildings except residential buildings. This prohibition shall not be construed to apply to that portion of any building or dwelling licensed for the sale and consumption of beer, wine, or other alcoholic beverages.
- (e) A container shall be considered opened or unsealed if the seal has been broken or the pop-top can or top has been opened.
- (f) There shall be no bottle clubs in the city.
- (g) The city commission shall have the specific authority to issue permits for special activities in the city to allow for open containers in areas other than enclosed buildings, or on premises used solely for residential purposes, to include hotels, motels and boardinghouses.

(Code 1980, § 2A-9; Code 1989, § 3-12)

Sec. 6-5. - Minors on premises of vendors; employment of minors by vendors.

Employment of minors by certain vendors is prohibited unless permitted by F.S. § 562.13. It shall be unlawful for any minor to loaf or loiter in any establishment for the sale of alcoholic beverages and unlawful for any minor to enter a place for the sale of alcoholic beverages unaccompanied by his parent or lawful guardian. No person who is a vendor of alcoholic beverages shall allow any minor to loiter or loaf in such establishment dealing in alcoholic beverages, or permit any minor to enter his place of business unaccompanied by the minor's parent or lawful guardian.

(Code 1980, § 2A-13; Code 1989, § 3-13)

State Law reference— Employment of minors, F.S. § 562.13.

Secs. 6-6—6-30. - Reserved.

ARTICLE II. - LOCATION OF ALCOHOLIC BEVERAGE ESTABLISHMENTS¹²¹

Footnotes:

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Cross reference— Zoning, ch. 110.

State Law reference— Authorization to regulate location of alcoholic beverage establishments, F.S. § 562.45(2).

Sec. 6-31. - Use designation categories.

The following shall govern in establishing alcoholic beverage designations within the city:

- (1) 1APS: Beer package sales.
- (2) 1COP: Beer, consumption on premises, package sales.
- (3) 1-COP restricted: Beer, consumption on premises only.
- (4) 2APS: Beer and wine, package sales only.
- (5) 2COP: Beer and wine, consumption on premises and package sales.
- (6) 2-COP restricted: Beer and wine, consumption on-premises only.
- (7) PS: Liquor, package sales.
- (8) 4COP: Liquor, consumption on-premises and package sales.
- (9) 4-COP restricted: Liquor, consumption on-premises only.
- (10) 4-COPSRX: Consumption on-premises only, special restaurant.
- (11) 11C: Chartered, incorporated and social clubs.

(Code 1980, § 2A-3; Code 1989, § 3-3)

Sec. 6-32. - Application for approval of location.

- (a) Any person, before starting any business dispensing alcoholic beverages subject to licensing by the state, shall file with the city an application to conduct such business on the form as provided by the city. The following information shall be provided:
 - (1) The name and address of the applicant.
 - (2) If the applicant is the lessee or tenant, a notarized statement by the owner consenting to the application.
 - (3) The legal description of the property where the business is located, including a survey which clearly sets out the location of the building.
 - (4) The street address of the property.
 - (5) The alcoholic beverage classification requested.
- (b) The application fee shall be established by the city commission and is listed in chapter 15, schedule of fees.
- (c) Applications will be reviewed by the Pinellas County Sheriff's Office and the planning and zoning department for compliance.
- (d) A representative of the Pinellas County Sheriff's Office or city employees authorized by the city manager may make an inspection of each establishment at any time to determine whether or not the provisions of this chapter or any other Code section or state statute are being complied with. If a representative of the Pinellas County Sheriff's Office or city employee as authorized by the city manager is refused entry an administrative search warrant shall be obtained pursuant to F.S. § 933.21.
- (e) Alcoholic beverage use designations are approved for a specific property location (i.e., building, lounge, restaurant, store) and a specific applicant. Any change in ownership of the establishment requires the filing of a new application and approval by the city commission. A change in ownership shall include the purchase or acquisition of 50 percent plus one share or more of stock and/or assets of the corporate entity, partnership or similar ownership entity.

(Code 1980, § 2A-1; Code 1989, § 3-3.1; Ord. No. 97-14, § 2, 8-20-1997; Ord. No. 2003-16, § 1, 11-25-2003; Ord. No. 2016-05, § 1, 9-13-2016)

Sec. 6-33. - Authority of city commission to designate locations.

- (a) The city commission shall have the power to designate the location and classification. The city commission may place reasonable restrictions that it deems appropriate.
- (b) No premises shall be used or occupancy permit issued for the sale of alcoholic beverages, for package sales, or on-premises consumption unless approved by the city commission.

(Code 1980, § 2A-4; Code 1989, § 3-4; Ord. No. 2015-09, § 1, 5-12-2015; Ord. No. 2016-05, § 2, 9-13-2016)

Sec. 6-34. - Location restrictions.

- (a) It shall be unlawful for any vendor to offer for sale any alcoholic beverages or package liquors or to locate, keep, or maintain any establishment dealing in alcoholic beverages or package liquors in any area other than those designated by the city commission.
- (b) It shall be unlawful for any vendor to maintain any establishment or locate any establishment within 500 feet of any public or private elementary school, middle school, or secondary school unless the city commission approves the location as promoting the public health, safety, and general welfare of the city under proceedings as provided in F.S. § 166.041(3)(c).
- (c) Zoning approval must be secured for 1APS applications that fall under the following categories:
 - (1) All new applications.
 - (2) Change of location.
 - (3) Change of alcoholic beverage license to 1APS.
 - (4) Amended sketch of the floor plan that would extend the premises beyond the current approved floor plan.

(Code 1980, § 2A-5; Code 1989, § 3-5; Ord. No. 492, 2-20-1991; Ord. No. 2016-05, § 3, 9-13-2016)

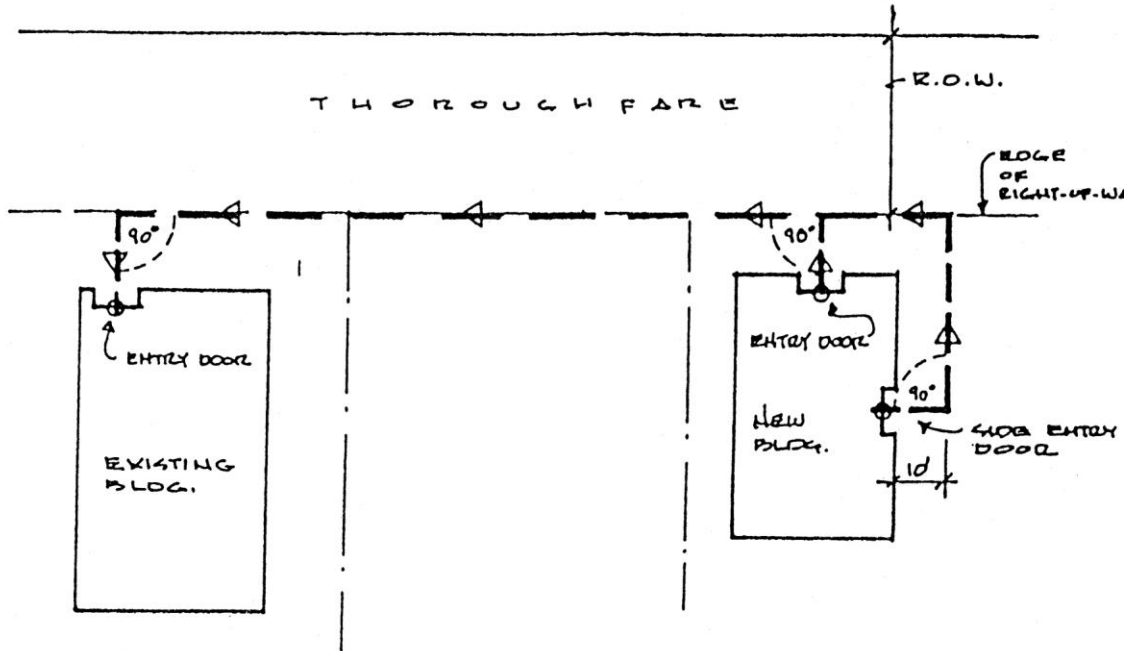


DIAGRAM A

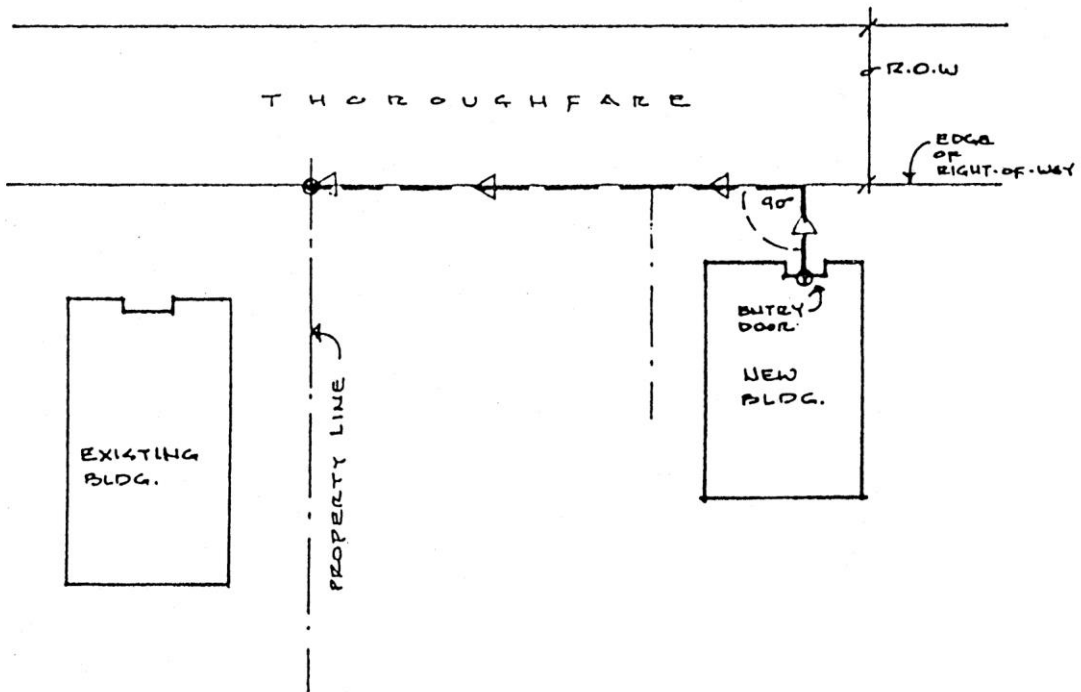


DIAGRAM B

Sec. 6-35. - List of approved designated use areas and licenses.

The list of approved designated use areas and permitted licenses will be on file at the city. All approved use areas are approved under the provisions of this chapter.

(Code 1980, § 2A-6; Code 1989, § 3-6)

Sec. 6-36. - Effect of abandonment of property or nonrenewal of state license.

- (a) If a property that has an approved alcoholic beverage use designation fails to open within six months of the original designation, or ceases to operate, or is abandoned for a period of six months or longer, or if a property that has an approved alcoholic beverage use designation fails to renew the state alcoholic beverage license by October 1 of each year, such use designation shall be considered null and void.
- (b) The city commission shall then have the authority to revert the property to an undesignated status pursuant to the procedures contained in sections 6-37 and 6-38.

(Code 1980, § 2A-10; Code 1989, § 3-7)

Sec. 6-37. - Grounds for removal of use designation.

The city commission, after conducting a public hearing and by majority vote, is authorized to revert to an undesignated status any property which has been designated for the sale of any type of alcoholic beverages or from which any type of alcoholic beverages may lawfully be sold or consumed within the corporate limits of the city, whenever it is determined that the owner of such property or the owner or holder of the alcoholic beverage license pertaining to such property, or their agent or employee, has failed to comply with any restrictions on such use designation imposed pursuant to subsection 6-33(a), or has committed, or has been convicted of, or has allowed or caused or permitted to exist, any one or more of the following:

- (1) Commission of an act amounting to a felony under the laws of the state or the United States of America, whether convicted or not.
- (2) The maintaining or allowing of a nuisance on such property. For purposes of this subsection, the term "nuisance" means engaging in any activity or permitting any activity or noise on the licensed premises, including the real property associated with the licensed premises, such as to repeatedly or intermittently annoy, disturb, injure, or tend to annoy, disturb, injure or endanger the comfort, repose, peace or safety of any person.
- (3) Engaging in or permitting disorderly conduct on or about such property.
- (4) Failing to comply with any of the provisions of the fire prevention code after having received reasonable notice to eliminate or correct any condition existing on such property that is in violation of such code.
- (5) Conviction for selling, giving, serving or permitting to be served alcoholic beverages to persons under 21 years of age, or as prescribed by state law, or permitting a person under 21 years of age, or as prescribed by state law, to consume alcoholic beverages on such property.

(Code 1980, § 2A-11; Code 1989, § 3-8; Ord. No. 2015-10, § 1, 5-12-2015)

Sec. 6-38. - Procedure for removal of use designation.

Whenever the city commission shall find that the owner of any property which has been designated for the sale of any type of alcoholic beverages or from which any type of alcoholic beverages may be lawfully sold or consumed, or the holder of the alcoholic beverage license pertaining to such property, or their agent or employee, has committed or has been convicted of, or has allowed or caused or permitted to exist, any one or more of the enumerated items contained in sections 6-37 and 6-38, it shall notify the owner of such property or the holder of the alcoholic beverage license pertaining to such property of its intention to consider removing the alcoholic beverage use designation attached to such property, and shall grant the affected party a public hearing at a time and place to be specified in such notice.

(Code 1980, § 2A-12; Code 1989, § 3-9)

Secs. 6-39—6-60. - Reserved.

ARTICLE III. - CONDUCT IN ALCOHOLIC BEVERAGE ESTABLISHMENTS

Sec. 6-61. - Definitions.

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

Alcoholic beverage establishment means an establishment licensed by the state to sell any alcoholic beverage for consumption on the premises.

Establishment means a physical place or location where the commercial activities or operations are being conducted or both together, as the context of this article may require, located within the city.

Permit means to know or have reasonable cause to know an activity is occurring and to fail to make a reasonable and timely effort to halt or abate such activity.

Premises means a physical place or location which is enclosed by walls or by any other enclosing structural device, which is covered by a single roof, and shall include any structures or land, or contiguous structures or land, within 300 feet of the physical place or location where such structure or land in the physical place or location is under common ownership, control, and possession.

(Code 1989, § 3-15; Ord. No. 540, § 1, 10-20-1993)

Cross reference— Definitions generally, § 1-2.

Sec. 6-62. - Statutory and constitutional authority.

This article is enacted in the interest of the health, safety and welfare of the citizens and inhabitants of the city, pursuant to the state constitution, art. VIII, § 2(b), under the regulatory power of the 21st Amendment of the Constitution of the United States, and pursuant to F.S. § 562.45(2)(b).

(Code 1989, § 3-16; Ord. No. 540, § 2, 10-20-1993)

Sec. 6-63. - Prohibited acts.

- (a) *Exposure of specified bodily areas.* It shall be unlawful for any person owning, maintaining, operating or leasing an alcoholic beverage establishment, or his employee, agent, servant, and any entertainer employed at the licensed premises or employed on a contractual basis, and for any patron, customer or spectator, to appear on an alcoholic beverage establishment's premises in such a manner or attire as to expose to public view, or to employ any device or covering that is intended to give the appearance of, any portion of the pubic area, anus, vulva or genitals, or, if such person is a female, the area of the breasts directly or laterally below the top of the areola.
- (b) *Permitting violation of subsection (a).* It shall be unlawful for any person owning, maintaining, operating or leasing an alcoholic beverage establishment to permit any violation of subsection (a) of this section.
- (c) *Lap dancing or private tableside dancing.* It shall be unlawful for any person owning, maintaining, operating or leasing an alcoholic beverage establishment, or his employee, agent, servant and any entertainer employed at the licensed premises or employed on a contractual basis, to engage in any activity commonly referred to as lap dancing or private tableside dancing, whereby the person intentionally sits upon or rubs against the clothed or unclothed genitals, vulva, anus or buttocks of

any patron, customer or spectator therein in exchange for receiving a tip, donation, gratuity or anything of value, including but not limited to money. It shall be unlawful as well for the patron, customer or spectator upon whose body the lap dancer or private tableside dancer is committing the activity proscribed by this subsection to permit the activity to occur. This section does not apply to acts done for bona fide medical purposes.

- (d) *Permitting violation of subsection (c).* It shall be unlawful for any person owning, maintaining, operating or leasing an alcoholic beverage establishment to permit any violation of subsection (c) of this section.
- (e) *Screened areas prohibited.* It shall be unlawful for any person owning, maintaining, operating or leasing an alcoholic beverage establishment to permit the construction, maintenance or use of areas completely or partially partitioned, curtained or screened from public view that are permitted to be used for the activities proscribed in subsection (c) of this section.

(Code 1989, § 3-17; Ord. No. 540, § 3, 10-20-1993)