

ORDINANCE NO. 4488-13

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 6 (ALCOHOLIC BEVERAGES), SECTIONS 6-1, 6-2, 6-4, 6-7 AND 6-8 OF THE CODE OF ORDINANCES; PROVIDING A DEFINITION AND REGULATIONS FOR BAKERIES, CAFES AND COFFEE SHOPS; REVISING THE METHOD OF MEASUREMENT FOR DISTANCE SEPARATION REQUIREMENTS; CLARIFYING SOME TERMS FOR ALCOHOL SALES WITHIN THE DOWNTOWN AREA; CORRECTING FOR SCRIVENER'S ERRORS; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, Chapter 6 of the Code of Ordinances establishes the minimum distance separation standards for properties that sell alcohol for consumption on and off premises; and

WHEREAS, the City has established the measurement point for properties which sell alcohol for consumption on and off premises within downtown and on government-owned land as the boundary of the premise and lease line; and

WHEREAS, commercial strip centers require large tracts of land within which it is not uncommon to have multiple uses and the City desires to create consistency in measuring uses that may be located within large tracts of land; and

WHEREAS, the City recognizes that Bakery, Cafes and Coffee Shops have changed over the years and should be allowed to sell alcohol on a limited basis; and

WHEREAS, the City has identified that the previous adoption of Chapter 6 of the Code of Ordinances contained scrivener's errors and the City desires to correct the scrivener's errors; and

WHEREAS, the definition section of Chapter 6 is being amendment to add more clarity in enforcing the alcohol regulations; and

WHEREAS, the City Commission desires to amend its regulations regarding alcoholic beverages in Chapter 6 of the Code of Ordinances of the City of West Palm Beach as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 6-1 (Definitions); the indicated definitions shall be added or amended as indicated in this Ordinance; all other definitions shall remain unmodified:

Sec. 6-1. Definitions.

For the purposes of this chapter, the words and phrases used in this chapter shall have the meanings respectively ascribed to them by the state alcoholic beverage code, F.S. Chs. 561—567. In addition to the definitions contained in the state alcoholic beverage code, 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:

Bakeries, cafés and coffee shops mean a small or informal restaurant or coffee bar, serving light meals and refreshments. The sale or service of beer and wine is incidental to the sale and service of food and nonalcoholic beverages and meets the following criteria:

- a. Only the sale of beer and wine shall be permitted for consumption upon premises with food.
- b. Bakeries, cafes and coffee shops shall have a customer service area consisting of tables and chairs or customer counters for customer seating and service of food.
- c. The hours of sale for beer or wine are Monday through Saturday 11:00 am to 10:00 pm; Sunday 12:00 noon to 10:00 pm.
- d. Bakeries, cafés and coffee shops shall have all required and appropriate state licenses, as well as all municipal or county permits required by law, and must meet all local zoning requirements.

Bona fide restaurant means an establishment engaged primarily in the service of food and nonalcoholic beverages, where the sale or service of alcoholic beverages is incidental to the sale and service of food and nonalcoholic beverages and meets all of the following criteria:

(4) In order for tables, chairs or customer counters to be included in the customer service area, the service of full course meals shall ~~must~~ be available at each seat or chair at each table or customer counter in accordance with the following:

- a. The total number of seats or chairs at the tables, customer counters and bars within the customer service area shall ~~must~~ be sufficient to accommodate the maximum occupant load of the restaurant.
- b. The full occupant load shall be determined in accordance with the provisions of the ~~Florida Building Code or its successor code~~ current edition of the Florida Fire Prevention Code.

Establishment with alcohol as accessory use means a retail or service establishment in ~~the downtown master plan area~~ which offers alcoholic beverages to its customers for

Language underlined added, and language ~~stricken~~ deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

consumption upon the premises as an accessory service; for example, a beauty salon which offers wine to customers while providing beauty services; but consumption of alcohol is not the primary business and no more than 25 percent of the gross revenue of the business is derived from the sale of alcoholic beverages. This provision shall not apply to convenience stores as defined in sec. 94-611 of the zoning and land development regulations.

SECTION 2: Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 6-2 (Areas within which licenses shall not be issued) and shall read as follows; those portions of this section not modified by this Ordinance shall remain unchanged:

Sec. 6-2. - Areas within which licenses shall not be issued.

(a) *Downtown master plan area.*

- (1) ~~Within the downtown master plan area, retail establishments for the~~ The sale of liquor, beer, wine and ale for consumption off the premises shall not be allowed within the Northwest Neighborhood District or the Clematis Waterfront District.
- (2) No ~~retail~~ alcoholic beverage establishment for the sale of liquor, beer, ale or wine for consumption on the premises shall be allowed where the location designated therefor is within 500 feet of a public, private or parochial school; and no ~~retail establishment~~ alcoholic beverage establishment for the sale of liquor for consumption on the premise shall be allowed where the location designated therefor if within 500 feet of a church. ~~For retail establishments for the sale of beer, ale or wine for consumption on the premises,~~ The method of measurement shall be by straight airline measurement taken from the property line of the school or church to the boundary of the premises of the retail establishment alcoholic beverage establishment.
- (3) In addition, the following regulations shall apply to the street level and all floors above the street level within the downtown master plan area:

- (iv) There shall be no more than 50 contiguous linear feet of ~~bar~~ alcoholic beverage establishment frontage on any street frontage.

(b) *All other areas.*

- (1) No ~~retail~~ alcoholic beverage establishment for the sale of liquor, ~~or for the sale of~~ beer, ale or wine to be consumed on the premises shall be allowed where the location designated therefor is within 500 feet of any property zoned as within classes SF-3 through MF-32 or RPD residential districts as defined by chapter 94. The method of measurement that shall

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apply to determine whether or not such place of business is within or without 500 feet from property zoned as within classes SF-3 through MF32 or RPD residential districts shall be by a straight line measurement from any entrance of the licensed premises proposed for the alcoholic beverage establishment to the nearest lot line of the property zoned SF-3 through MF32 or RPD residential zoning districts. ~~airline measurement made or taken from the lot lines of the respective properties which are closest to one another, except as otherwise provided herein. In situations where the proposed alcoholic beverage establishment one of the properties is a leasehold of a larger government-owned parcel, the measurement shall be from the lease line.~~

- (2) No ~~retail~~ alcoholic beverage establishment or package store for the sale of liquor to be consumed either on or off the premises, or for the sale of beer, ale or wine to be consumed on the premises, shall be allowed where the location designated therefor is within 500 feet of a church or public, private or parochial school. The method of measurement that shall apply to determine whether or not such place of business is within or without 500 feet from ~~property zoned as within classes SF-3 through MF32 or RPD residential districts~~ a church or public, private or parochial school shall be by a straight line from any entrance of the licensed premises proposed for the alcoholic beverage establishment or package store to the main entrance of the church or, with respect to schools, to the nearest point of the school grounds. ~~airline measurement made or taken from the lot lines of the respective properties which are closest to one another, except as otherwise provided herein. In situations where the proposed alcoholic beverage establishment one of the properties is a leasehold of a larger government-owned parcel, the measurement shall be from the lease line.~~
- (3) No ~~retail~~ alcoholic beverage establishment for the sale of liquor, ~~to be consumed either on or off the premises, or for the sale of beer, ale or wine to be consumed on the premises,~~ shall be allowed where the location designated therefor is within 500 feet of the location of ~~another~~ such an alcoholic beverage establishment, package store or convenience store. No package store for the sale of liquor shall be allowed where the location designated therefor is within 500 feet of the location of another such alcoholic beverage establishment, package store or convenience store. ~~retail establishment.~~ The method of measurement that shall apply in such cases shall be by measurement made or taken from the main entrance or entrances of the licensed premises of such existing ~~other~~ alcoholic beverage establishment, package store or convenience store place of business to the main entrance or entrances of the proposed alcoholic beverage establishment, package store or convenience store as defined in Sec. 94-611 of the Zoning and Land Development Regulations. ~~such applicant's place of business.~~ along the route of ordinary pedestrian traffic. The location limitation contained in this sub-section shall not apply to any bona fide restaurant, which operates as such during all hours of operation, as defined in this chapter, with a 4COP license and located within the Northwood Mixed Use District.

- (d) *Exceptions.* The provisions of subsections (a) and (b) of this section shall not apply to:

(12) Properties separated by federal Interstate I-95.

(13) Bakeries, cafes and coffee shops, as defined in this chapter.

SECTION 3: Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 6-4 (Consumption, sales, service, prohibited at certain times) and shall read as follows:

Sec. 6-4. Consumption, sales, service, prohibited at certain times

- (a) *Downtown master plan area.* It shall be unlawful, within the downtown master plan area, for any person to consume, sell or serve, or to permit the consumption, sale or service of any alcoholic beverages in any place holding an alcoholic beverage license from the state during the following indicated times:

Downtown Master Plan Area - Prohibited Times for Consumption ON Premises				
	Monday–Friday	Saturday	Sunday	Holidays New Year's Eve New Year's Day Memorial Day Fourth of July Labor Day Thanksgiving Day Christmas Day
Alcoholic beverages, including beer, ale and wine	12:00 a.m. to 7:00 a.m. unless extended by permit	12:00 a.m. to 7:00 a.m. unless extended by permit	12:00 a.m. to 12:00 noon unless extended by permit	12:00 a.m. to 7:00 a.m. <u>unless extended by permit</u>

Downtown Master Plan Area - Prohibited Times for Consumption OFF Premises		
	Monday–Saturday	Sunday

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Alcoholic beverages, including beer, ale and wine	12:00 a.m. to 7:00 a.m.	12:00 a.m. to 7:00 12:00 noon
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SECTION 4: Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 6-7 (Extended hours permit; downtown) and shall read as follows:

Sec. 6-7. Extended hours permit; downtown.

- (b) *Extended hours permit application.* Any alcoholic beverage establishment or bona fide restaurant, located within the downtown master plan area holding a license duly granted by the state to sell and dispense alcoholic beverages for on-premise consumption may apply to the city for an extended hours permit. Establishments shall meet all permit requirements at all times during the permit period. Extended hours permits shall be renewed annually. The fee for the issuance of the extended hours permit shall be set by resolution of the city commission, and shall be paid prior to issuance of the permit and prior to annual renewal of an extended hours permit. Permit requirements are established in section 6-8.

SECTION 5: Chapter 6, Alcoholic Beverages, of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 6-8 (Extended hours permit requirements) and shall read as follows:

Sec. 6-8. Extended hours permit requirements.

- (a) Each alcohol beverage establishment or a bona fide restaurant holding an extended hours permit shall comply with each of the following permit requirements at all times:
 - (1) *Security.* On Friday and Saturday nights, the establishment shall and provide interior security personnel of a number equaling one security person per each occupancy level of 150 occupants or any portion thereof. For example, if the occupancy level of an establishment is 500, four interior security personnel are required. If the occupancy level is 150, one interior security personnel is required. All persons acting as security personnel shall be required to obtain a security officer ID card from the City of West Palm Beach Police Department, and shall be required to wear such ID card at all times when acting as interior security. Additionally, all establishments shall maintain a log showing the security personnel working each night. This list shall be made available to any law enforcement officer upon request to confirm the number of security personnel staffed.

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SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 8: Authority is hereby granted to codify the text amendments set forth in this Ordinance.

SECTION 9: This Ordinance shall take effect in accordance with the law.

FIRST READING THIS 15th DAY OF OCTOBER, 2013

SECOND READING AND PASSAGE THIS 28th DAY OF OCTOBER, 2013.

(CORPORATE SEAL)

**CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION**

ATTEST:

CITY CLERK

PRESIDING OFFICER

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: _____