

## ORDINANCE NO. 2014-13

AN ORDINANCE AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, OF THE *CODE OF ORDINANCES*, BY AMENDING SECTION 4-3, SALE, CONSUMPTION, POSSESSION, ETC., PROHIBITED EXCEPT ON LICENSED PREMISES; EXCEPTIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** Chapter 4, Alcoholic Beverages, Section 4-3, Sale, consumption, possession, etc., prohibited except on licensed premises; exceptions, of the City's *Code of Ordinances* is hereby amended to read as follows:

**Sec. 4-3. ~~Sale, consumption, possession, etc., prohibited except on licensed premises~~  
Consumption in public places; exceptions.**

- (a) ~~The sales, barter, exchange, possession, custody, control or consumption of alcoholic beverages shall be unlawful if the same occurs:~~  
It is unlawful for any person to consume and for any person to carry in any cup, can or other open or unsealed container any alcoholic beverage on any public right-of-way, including streets, sidewalks and alleyways, on lands owned or controlled by the city; or in any city-owned or city-controlled building or facility, except as provided by section 4-3(b) of this ordinance.
- (1) ~~In any place of business licensed by the State of Florida, Department of Business Regulation, Division of Alcoholic Beverages and Tobacco, to sell or serve alcoholic beverages and during hours other than those established by section 4-5 of this Code; or~~
  - (2) ~~At any time in any public place; or~~
  - (3) ~~In any place of business other than one licensed to serve or sell alcoholic beverages by the State of Florida, Department of Business Regulation, Division of Alcoholic Beverages and Tobacco; or~~
  - (4) ~~On or in any real or personal property including but not limited to any vehicle (as defined by Chapter 316, Florida Statutes), but excluding any privately-owned residential real property.~~
- (b) The provisions of subsection (a) of this section shall not apply to:

- (1) Alcoholic beverages being stored or transported and contained within sealed, unopened containers;
- (2) Private social events (e.g., dinners, dances, weddings, receptions, etc.) held upon city-owned real property in accordance with the following requirements:
  - a. The person or sponsor requesting such event must submit to the leisure services director an application for use of the city-owned real property consistent with the requirements of this section and all other applicable provisions of this Code, the city's risk management and minimum liability insurance requirements, and any applicable regulations of the leisure services department. The leisure services director or his designee shall, within a reasonable time after the submission of an application, review and approve the application if it satisfies all applicable requirements;
  - b. The event may be held within the confines of a city-owned building, including an area on the grounds outside and immediately adjacent to the city-owned building that have been designated for such use by the leisure services director;
  - c. The event is scheduled by the leisure services director;
  - d. The private social event may include a charge to the persons invited;
  - e. The requesting party pays in advance such reasonable fee for use of the property as necessary to cover the cost of cleanup, utility cost and supervision of the event; and
  - f. The only alcoholic beverages that may be served, sold or offered for sale, or consumed are beer, wine or champagne. Proof of an appropriate license from the State of Florida, Department of Business Regulation, Division of Alcoholic Beverages and Tobacco must be provided.
- (3) Real property owned by the city that are used for events which are permitted by the city manager, or the city manager's designee, in accordance with the following requirements:
  - a. The event is sponsored by an organization which is incorporated and active as a corporation not-for-profit pursuant to F.S. ch. 617, as evidenced by a certified copy of the articles of incorporation, and has its registered office or a branch or chapter thereof, within the corporate limits of the City of Ormond Beach;
  - b. The beverages to be available for purchase and consumption are limited to beer, wine and champagne;
  - c. The organization obtains the appropriate licenses from the State of Florida, Department of Business Regulation, Division of Alcoholic Beverages and Tobacco;
  - d. All of the funds raised by the event are, after payment of all expenses directly related to the event (e.g., out-of-pocket expenses reimbursed to the city, for labor, materials, advertising):
    1. Paid to the City of Ormond Beach; or

Used to purchase some item(s) of property to be donated to the City of Ormond Beach and used for the betterment of all of the citizens of the city; or

3. Donated to and for use by a publicly owned facility located within Volusia County, Florida, which type of facility is not available within the City of Ormond Beach but is of benefit to the citizens of the city; or
  4. Used by the organization to purchase some specific items of personal property which will be used to further the health, safety and/or general welfare of the citizens of the City of Ormond Beach.
- e. The event is open to all persons, without discrimination as to race, sex, creed, religion and national origin;
  - f. The applicant posts with the city a cash bond in the sum of one thousand dollars (\$1,000.00) which shall be applied to the city's actual costs of utilities, clean up, and all city personnel working the event; upon staff certification to the city manager that all city expenses caused by the event have been paid, the city manager shall refund any unused portion of the bond; if city expenses exceed one thousand dollars (\$1,000.00) the organization shall be billed therefor and shall pay the same within thirty (30) days of the date of the bill; failure to pay the bill shall be grounds for denial of any future permit.
  - g. No more than three (3) such events shall be held by any organization in any calendar year;
  - h. The event may be held within the confines of a city-owned building, including an area on the grounds outside and immediately adjacent to the city-owned building that have been designated for such use by the leisure services director; and
  - i. The sponsor must comply with the city's risk management and minimum liability insurance requirements.
- (c) It is unlawful for any person to consume and for any person to carry in any cup, can or other open or unsealed container any alcoholic beverage on the outside premises of any package store, convenience store, food store, or any other establishment selling alcoholic beverages. Outside premises shall include all open areas within 200 feet of the building where alcoholic beverages are sold.
- (1) The provisions of subsection (c) shall not apply to any area or premises constituting "licensed premises" as defined by Fla.Stat. 561.01 (11) where the sale and consumption of alcoholic beverages is properly licensed, or to any area where consumption of alcoholic beverages is otherwise permitted by appropriate government authority.
  - (2) The provisions of subsection (c) shall not apply to any area or premises used exclusively for residential, non-transient dwelling purposes.

**SECTION TWO.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION THREE.** In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

**SECTION FOUR.** This Ordinance shall take effect immediately upon its adoption.

**PASSED UPON** at the first reading of the City Commission this 4<sup>th</sup> day of March, 2014.

**PASSED UPON** at the second and final reading of the City Commission this 18<sup>th</sup> day of March, 2014.

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**ED KELLEY**  
Mayor

**ATTEST:**

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**J. SCOTT McKEE**  
City Clerk