



TOWN OF DAVIE
PLANNING & ZONING DIVISION
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MEMORANDUM

TO: Planning and Zoning Board

FROM: David Quigley, Planning & Zoning Manager (954-797-1075) 

DATE: June 17, 2016

SUBJECT: Amendment to alcoholic beverage regulations (ZBTEXT15-340)

BACKGROUND

In general, bars and restaurants serving after 12AM tend to generate more noise and other disturbances and can have higher degree of police activity. The proposed ordinance is not intended to eliminate late night activity but instead to set a high standard of operations for businesses serving 2AM to 4AM, along with clear standards for enforceability. The “extended hours license” approach is already in use by several municipalities within the County.

Another goal of the ordinance is to update the zoning rules and to de-emphasize distance separation requirements among commercial uses. The proposed ordinance will consolidate regulations concerning alcoholic beverage regulations within the land development code. Note that the zoning provisions are proposed to take effect immediately upon adoption while the sections concerning hours of operation and extended hours permits would not take effect until December 19, 2016. This will allow time for Town consideration of extended hours applications for existing businesses.

In addition to the attached ordinance, Staff has provided a Question and Answer guide to summarize the existing and proposed regulations and provide some background on state regulation of alcoholic beverages.

RECOMMENDATION

Staff recommends that the Planning and Zoning Board find that the proposed ordinance is consistent with and furthers the Town’s Comprehensive Plan.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING ARTICLE XVIII, ALCOHOLIC BEVERAGES, OF CHAPTER 12, LAND DEVELOPMENT CODE; REPEALING CHAPTER 3; ALCOHOLIC BEVERAGES; REPEALING SECTION 12-34(C), ALCOHOLIC BEVERAGE ESTABLISHMENTS; PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, the Town of Davie is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Town Council finds it periodically necessary to amend its Land Development Code in order to update regulations and procedures to implement planning goals and objectives; and

WHEREAS, the Town of Davie wishes to pass reasonable restrictions on hours of operation by allowing a special permit process for such; and

WHEREAS, the proposed ordinance is within the police power of the Town of Davie; and
WHEREAS, reasonable regulation of the hours of sale of alcohol is in the interests of the health, safety and welfare of the people of the Town of Davie; and

WHEREAS, the proposed ordinance does not place an undue burden on alcoholic beverage Vendor Licensees within the Town of Davie; and

WHEREAS, following proper notice to the public and after having received input and participation from interested members of the public and staff, and having considered the recommendation of the Planning and Zoning Board, the Town Council finds this proposed ordinance consistent with its Comprehensive Plan, as amended, as well as Florida and Federal law; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town's residents; and

WHEREAS, at a public hearing on June 22, 2016, the Planning and Zoning Board reviewed this ordinance and made a recommendation to Town Council; and

WHEREAS, the Town Council has held two advertised public hearings in accordance with Florida Statutes; and

WHEREAS, the Town Council deems it to be in the best interest of the citizens and residents of the Town of Davie to adopt the proposed amendments to the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. Article XVIII, Alcoholic Beverages, of Chapter 12 of the Land Development Code, is hereby adopted as set forth in Exhibit “A”.

SECTION 3. Chapter 3; Alcoholic Beverages; is hereby repealed as shown in Exhibit “B” (deleted language is struck through).

SECTION 4. Section 12-34(C), Alcoholic Beverage Establishments, is hereby repealed as shown in Exhibit “C” (deleted language is struck through).

SECTION 5. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 7. This ordinance shall take effect immediately upon adoption except that the provisions of Sections 12-604 through 12-607 shall take effect on December 19, 2016.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2016

PASSED ON SECOND READING THIS ____ DAY OF _____, 2016

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2016

EXHIBIT "A"

ARTICLE XVIII. ALCOHOLIC BEVERAGES

Sec. 12-601. Definitions.

The following words, terms and phrases when used in this article shall have the meanings as set forth below except where the context clearly indicates a different meaning.

Alcoholic beverages means distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

Bottle club as found in Fla. Stat. §561.01(15) means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent structure. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held, bona fide restaurants licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation whose primary business is the service of full course meals, or hotels and motels licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

Bona fide restaurant means a restaurant having at least 2,500 square feet of customer service area, which is equipped to serve 150 persons full course meals at tables at one time, consistently serves full course meals at all times that the establishment is open for business, and derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, and serves alcoholic beverages.

Club, private means an association or organization of a fraternal or social character, not operated or maintained for profit. The term "private club" shall not include casinos, night clubs, restaurants, other institutions operated as a business.

Consumption on premises means sale or service of alcoholic beverages for the purpose of consumption within the same premises, excluding private clubs as defined herein.

Liquor means any and all distilled or rectified spirits, brandy, whisky, rum, gin, cordials, or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

Package liquor store means a vendor licensed to sell liquor in sealed containers for consumption off the premises only.

Person or Vendor shall include all persons selling, offering or keeping with the intention of selling, or dealing in, the beverages defined in this chapter.

Premises means the furthest horizontal extent of a business involving the sale or consumption of alcoholic beverages, including all areas where alcoholic beverages are authorized to be sold, consumed or stored, including outdoor customer service areas if applicable, but excluding parking and loading areas.

Sec. 12-602. General provisions.

- (A) **No service to intoxicated persons.** No person licensed hereunder and no agent, servant or employee of any licensee hereunder shall give, sell, deliver, serve, or permit to be served any alcoholic beverage to any person who is intoxicated.
- (B) **Bottle clubs.** No bottle clubs will be licensed or authorized to do business within the Town and they are prohibited.

Sec. 12-603. Zoning standards.

- (A) **Package liquor stores.** Package liquor stores shall be subject to the following limitations and requirements:
 - 1. The premises shall be separated at least twelve hundred (1,200) feet from the premises of any other package liquor store.
 - 2. The premises shall be separated at least one thousand two hundred (1,200) feet from any elementary, middle or high school, whether public, private or parochial, or any place of public assembly. The required separation shall be measured in a straight line from the furthest extension of the premises of the package liquor store to the nearest primary or accessory building associated with an elementary school, middle school, high school, or place of public assembly.
- (B) **Consumption on-premises.** Places for the sale and consumption on premises of alcoholic beverages shall be subject to the following limitations and requirements:
 - 1. Any portion of the premises which is not fully enclosed (with solid roof, walls, windows and doors) shall be separated at least five hundred (500) feet from any lot zoned or used for residential purposes. For purposes of this paragraph, during hours of normal operation, windows shall remain closed and doors shall not be left continually in the open position.
 - 2. The premises shall be separated at least one thousand two hundred (1,200) feet from any elementary, middle or high school, whether public, private or parochial,

or any place of public assembly. The required separation shall be measured in a straight line from the furthest extension of the premises to the nearest primary or accessory building associated with an elementary school, middle school, high school or place of public assembly.

(C) **Exceptions.**

1. The separation requirements and limitations specified under paragraph (B) above shall not be applicable to establishments which are part of and inside of a hotel having more than fifty (50) guest rooms, the entrance to the premises is from within the hotel with no outside direct entrance to the establishment and there is no sign or other indication of the existence of the establishment visible from the exterior of the building.
2. The separation requirements and limitations specified under paragraph (B) above shall not be applicable to private clubs where only members and their guests are served and there is no sign or other indication on the exterior of the building that alcoholic beverages may be served therein.
3. Paragraph (B)1, above, shall apply to lands within a Regional Activity Center zoning district except that the separation distance shall be one hundred (100) feet from any lot used exclusively for residential.
4. Paragraph (B)2, above, shall not apply to lands within a Regional Activity Center zoning district.

(D) **Application to new schools, places of public assembly and residential districts.**

Where an establishment as defined under paragraph (A) or (B) above is located and begins operation in conformity with the separation requirements applicable at that time, the subsequent locating of a school, place of public assembly or residential district within the currently required separation zone shall not be construed to put such existing establishment in violation of this section, unless the alcoholic beverage establishment is discontinued for a period of more than one (1) year.

- (E) **Measurement.** Where distance separation requirements apply, the applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the proposed premises and any other specified uses. In lieu of a survey, the applicant may furnish a map acceptable to the Town Administrator or designee, provided that such map is scalable and utilizes the current parcel boundaries as provided by the Broward County Property Appraiser.

Sec. 12-604. Hours of sale and consumption.

(A) Applicability.

1. Declaration of privilege. The right to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage between the hours of 2:00a.m. and 7:00a.m. on any day of the week is hereby declared to be and is a privilege, subject to suspension, termination, and the imposition of conditions by the Town, and no person may reasonably rely on a continuation of that privilege.
2. No legal non-conformities. Except as specifically provided in paragraph 3, below, the provisions of this section (12-604) shall apply to all lands within the Town of Davie, regardless of regulations which may have existed at the time of the establishment of any particular alcoholic beverage establishment.
3. Repeal of prior approvals and extensions; exceptions. This ordinance shall serve to repeal all former approvals and extensions with regard to the hours of sale, service or consumption of alcoholic beverages, provided that any judicial orders entered by a court of competent jurisdiction shall remain in full force and effect.

(B) **Retail sales.** No person shall sell alcoholic beverages at retail between the hours of 2:00a.m. and 7:00a.m.

(C) **Consumption on premises.**

1. **Hours of sale and consumption.** Except as otherwise provided in this section, no person shall sell or offer for sale, deliver or service or permit to be consumed upon the premises of such vendor, any alcoholic beverages on:
 - a. Sunday between the hours of 2:00a.m and 10:00a.m.; or
 - b. Monday through Saturday, between the hours of 2:00a.m. and 7:00a.m.
2. **Last call and closure.** All establishments subject to limitations on hours of sale pursuant to this paragraph (C) shall:
 - a. Conduct a "last call" for service of alcoholic beverages, ensuring that the establishment ceases the sale and service of alcoholic beverages no less than fifteen (15) minutes before the time periods set forth in paragraph (C)1 above.
 - b. Prohibit patrons from consuming alcoholic beverages outside of the hours allowed by this section (12-604), regardless of when such alcoholic beverages were ordered or sold.

- c. Prohibit patrons from remaining on or within the premises of an alcoholic beverage establishment, other than a bona fide restaurant, during such times that the sale, delivery, service or consumption of alcoholic beverages on premises is restricted by this paragraph (C). This is not intended to prohibit owners and employees of the establishment from remaining within the establishment during the restricted hours provided that alcoholic beverages are not consumed on the premises.

(D) **Exceptions.** The following are standard exceptions to the hours of limitation set forth in paragraph (C) above.

1. **New Years day.** Except where such privilege is suspended in writing by the Town of Davie, any establishment otherwise licensed and permitted to serve alcoholic beverages for consumption on premises shall be permitted to serve alcoholic beverages from 2:00a.m. to 4:00a.m. on January 1st without need to obtain an extended hours license.
2. **Special event or temporary use permits.** Except where such privilege is suspended in writing by the Town of Davie, a business or organization operating by way of a special event permit (Chapter 20 of the Town Code) or a temporary use permit (Section 12-318 of the Town Code) shall be governed by the hours of sale and consumption as expressly provided in such special event permit or temporary use permit, provided that in no case shall the sale or consumption of alcoholic beverages be permitted between the hours of 12:00a.m. and 10:00a.m.
3. **Golf clubs.** The owners and operators of country clubs, which are defined as establishments where the primary activities include the operation of an outdoor golf course, and where food and beverages are served in a restaurant clubhouse, may consumption on premises on any Sunday between the hours of 7:00 a.m. and 10:00 a.m., provided the operator of such country club holds a state beverage department license for the sale of such alcoholic beverages. For the purposes of this section, an "outdoor golf course" shall mean any bona fide regular, standard golf course consisting of at least nine (9) holes with clubhouse, locker rooms and attendant golf facilities.
4. **Bona fide restaurants.** A bona fide restaurant may allow consumption on premises on any Sunday between the hours of 7:00 a.m. and 10:00 a.m.

Sec. 12-605. Extended hours license.

(A) **In general.**

1. An extended hours license approved in accordance with this section shall authorize such licensed establishment to conduct the sale of alcoholic beverages for consumption on premises from 2:00 a.m. to 4:00 a.m. provided that such

establishment otherwise remains in compliance with the provisions of Section 12-604(B)2.

2. Extended hours licenses shall expire on October 1st of each year and shall be renewable for one-year periods.

(B) **Application process.**

1. Applications shall be submitted to the Town on forms provided by the Town Administrator or designee, along with a non-refundable application review fee or an annual fee as set by resolution of the Town Council.
2. The application form shall include a statement indicating that the licensee recognizes that the granting of an extended hours license is a privilege, not a right, and that failure of the licensee to strictly observe all of the conditions of the license shall be grounds for revocation or non-renewal of such license.
3. The Town Administrator shall be authorized to suspend review of any application where the premises is the subject of an unresolved notice of violation or which is contrary to a final order by the Special Magistrate pursuant to Chapter 6, Division 1 of the Town Code.
4. The Town Administrator or designee shall be authorized to require such documentation, drawings, reports or studies as may reasonably required to demonstrate compliance with the provisions of this article. The Town Administrator or designee shall inform the applicant in writing of any incompleteness.
5. Upon notice of an incomplete application, the applicant shall have sixty (60) calendar days to correct the deficiencies or the application will be considered withdrawn.
6. Once deemed complete by the Town Administrator or designee, the application shall be forwarded for review by the Development Review Committee.

(C) **Review criteria.** The following are the minimum criteria for consideration of an application for an extended hours license:

1. The nature, amount and degree of law enforcement activities generated by the operation of such establishment within the three (3) years prior to its application; by previous establishments in the same location; or at any establishment involving the same owner or managers, or any other person with a proprietary interest in the establishment. Consideration will be given as to whether the calls are initiated by the establishment and what efforts have been taken to reduce or prevent unlawful activity at establishments owned or managed by the applicant.
2. Whether owners or managers, or any other party with a proprietary interest in the establishment have been convicted of criminal offenses.

3. Whether the effects of the extended hours may place an undue burden on the neighborhood in proximity to the establishment, especially with respect to patron activities and effects of noise, parking, and vehicular use.

(D) **Notice of intent to approve or deny.**

1. In consultation with the development review committee, the Town Administrator or designee shall consider applications for extended hours licenses according to the criteria set forth paragraph (C) above. The Town Administrator or designee shall set forth his or her findings and conclusions on the application in a "notice of intent to approve" or a "notice of intent to deny" and provide such notice to the applicant in writing. A "notice of intent to approve" may include conditions of approval.
2. The applicant may appeal a "notice of intent to deny" pursuant to paragraph (G) below.

(E) **Notice to surrounding properties; public comment.** Any "notice of intent to approve" shall, at the applicant's expense, be mailed to surrounding property owners in the manner set forth in Section 12-306(E), except that the notification distance shall be 500ft. from the premises that is the subject of the application. The notice shall indicate where members of the public may submit written comments in relation to the application.

(F) **Final decision.** No sooner than twenty (20) but no later than thirty (30) days after the mailing of the "notice of intent to approve," the Town Administrator or designee shall consider any public comments or additional information submitted in relation to the application and render a final decision, setting out in writing the reasons for such approval or denial, and any conditions of approval.

(G) **Appeal to Town Council.** Any applicant aggrieved by a "notice of intent to deny" or any other final decision rendered by the Town Administrator or designee in regard to this article shall have thirty (30) calendar days to file an appeal to the Town Council. Upon receipt of such appeal, the Town Administrator or designee shall schedule a public hearing at the next available, regularly scheduled Town Council meeting.

Sec. 12-606. Requirements for all extend hours licenses.

To ensure public health and safety, the establishment shall comply with the following conditions during all hours of operation:

- (A) **Security cameras.** A security camera system capable of recording and retrieving video images to assist in offender identification and apprehension shall be provided. The system must capture entrances and exits, cash registers and parking lots. Camera must be activated and recording video during all hours of operation and recorded videos and images shall be retained for no less than thirty (30) days on the licensed premises before discarding by the licensee.
- (B) **Signage.** The establishment shall post exterior warning signage stating that loitering is prohibited and shall participate in the Town of Davie “No Trespassing” program.
- (C) **Responsible Vendor Program.** Any applicant for an extended hours license must comply with Florida's Responsible Vendor Act as set forth in sections 561.701 through 561.706, Florida Statutes, and must submit proof that each of its employees has completed a course of instruction dealing with alcoholic beverages, and must continue to be a member in the responsible vendor program as a condition of maintaining an extended hours license. Those applicants seeking approval must become members of the State of Florida Responsible Vendor Program prior to the extended hours license being issued.
- (D) **Security detail.** As a condition of any extended hours license, the Town may require that the landowner provide, at the landowner's expense, private duty police detail officer(s), Florida licensed security guard(s), or any combination thereof, during the hours of operation covered by the extended hours license. If security personnel are required, the number and type of security personnel shall be at the discretion of the Chief of Police or his/her designee. After the issuance of an extended hours license, the Chief of Police or his/her designee may periodically review and adjust the security requirement based on the availability of off-duty police officers and/or current security conditions in and around the establishment.
- (E) **On-premises manager.** The licensee shall designate an on-premises manager with the capacity to act on behalf of the licensee or applicant for the receipt of service of notices related to the extended hours license and related enforcement by suspension, revocation, or termination of the extended hours license by the Town or in any enforcement action; in addition, the Town may also post in a conspicuous location upon the licensed premises a notice that carries out any immediate legal action for the purpose of taking immediate enforcement action applicable to the extended hours license should said manager fail to appear or be identified
- (F) **State, local and federal law.** The establishment meets all of the requirements of local, state, and federal law and maintains all required licenses in order to serve, sell or allow the consumption of alcoholic beverages on the premises.
- (G) **Town business requirements.** The establishment shall maintain the required business tax receipt pursuant to Chapter 13 of the Town Code, including any associated annual Building and Fire inspections.
- (H) **Change of ownership.** Any extended hours license issued or an application seeking approval for an extended hours license shall be deemed null and void immediately upon the change of ownership in any alcoholic beverage establishment so granted the privilege.

- (I) **Posting of license.** An official copy of the extended hours license shall at all times be conspicuously displayed near the main customer entrance of the establishment so that it is viewable without having to enter the establishment.

Sec. 12-607. Enforcement.

- (A) **Summary action to suspend extended hours license.** In addition to any other enforcement actions available to the Town, if at any time during the operation of an alcoholic beverage establishment, the Chief of Police or his/her designee determines that the licensee has violated any of the statutes, codes or regulations of the State, County or Town, including any conditions of approval of the Town's extended hours license, the Chief of Police or his/her designee may take summary action to suspend the extended hours license by providing written notice to the on-premises manager of the establishment.
- (B) **Administrative appeal of summary action to suspend extended hours license.** An extended hours license holder who is aggrieved by a summary action taken pursuant to paragraph (A) above may file a written appeal to the Town Administrator or designee within thirty (30) calendar days. The Town Administrator shall consider the appeal no later than two (2) business days after receipt of the written appeal unless a later date is mutually agreed by the Town and the appellant. Upon consideration of the appeal, the Town Administrator shall have the authority to overturn the summary action to suspend the extended hours license, to establish new conditions of approval for the extended hours license, or to revoke the extended hours license.
- (C) **Appeal to Town Council.** An extended hours license holder who is aggrieved by a decision of the Town Administrator made pursuant to paragraph (B) above may file a written appeal to the Town Council or within thirty (30) calendar days. The appeal process shall be the same as set forth in Section 12-605(G). Upon consideration of the appeal, the Town Council shall have the authority to overturn the summary action to suspend the extended hours license, to establish new conditions of approval for the extended hours license, or to revoke the extended hours license.
- (D) **Revocation of license.** Wherever an extended hours license is revoked in accordance with this Section (12-607), the licensee shall be prohibited from re-applying for one (1) year from the date of the revocation.

EXHIBIT "B"

Chapter 3 - ~~ALCOHOLIC BEVERAGES (Reserved)~~

~~Sec. 3-1. - Definitions.~~

~~The following definitions shall apply throughout this chapter.~~

~~Vendor shall include all persons selling or keeping with the intention of selling, or dealing in, the beverages defined in this chapter.~~

~~Intoxicating beverages shall include all liquors, wines and beers containing more than three and two-tenths percent of alcohol by weight.~~

~~Alcoholic beverages shall include all beverages containing more than one (1) percent of alcohol by weight.~~

~~Liquor means and includes any and all distilled or rectified spirits, brandy, whisky, rum, gin, cordials, or similar alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.~~

~~Wine means all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine. Fortified wine means all wines containing more than fourteen (14) percent of alcohol by weight.~~

~~Beer and malt beverage means all brewed beverages containing malt.~~

~~Consumption on the premises means consumption of beer, wine or alcoholic beverages of any kind upon premises where purchased.~~

~~Consumption off the premises means consumption of beer, wine or alcoholic beverages of any kind at a place different from the place where purchased.~~

~~Package store means vendor license to sell all alcoholic beverages, but in sealed containers only, and for consumption off the premises. The sealed package must not be broken, and the contents must not be consumed in or on the premises under a package store license.~~

~~Sec. 3-2. - Hours of sale.~~

~~(a) No vendor licensee for consumption on the premises, except as provided in (c) hereof, shall sell or offer for sale, deliver or service or permit to be consumed upon the premises of such~~

~~vendor, any beer, wines or alcoholic beverages of any kind, regardless of alcoholic content, on any Sunday between the hours of 3:00 a.m. and 12 noon, or on any other day of the week between the hours of 2:00 a.m. and 7:00 a.m.~~

- ~~(b) No vendor licensee for consumption off the premises, except as provided in (c) hereof, shall sell, offer for sale, deliver, service or permit to be consumed upon the premises of such vendor, any beer, wines or alcoholic beverages of any kind, regardless of alcoholic content, on any Sunday between the hours of 3:00 a.m. and 7:00 a.m., or on any other day of the week between the hours of 2:00 a.m. and 7:00 a.m.~~
- ~~(c) Bona fide restaurant owners or lessees holding a state beverage department special license pursuant to F.S. section 561.20(2)(a) are prohibited from selling, offering for sale, delivering, servicing, or permitting to be consumed upon the premises of such vendor, any such beer, wines, or alcoholic beverages of any kind, regardless of alcoholic content on any Sunday between the hours of 4:00 a.m. and 12:00 noon or on any other day of the week between the hours of 4:00 a.m. and 7:00 a.m. A "restaurant" for the purposes of this section shall mean any restaurant having two thousand five hundred (2,500) or more square feet of service area and equipped to serve one hundred fifty (150) or more persons full course meals at one time and deriving at least fifty one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages. This subsection shall apply only to restaurants, as herein defined, holding special licenses pursuant to F.S. section 561.20 and shall not apply to extend the hours of hotels, motels, motor courts or condominium accommodations holding special licenses pursuant to F.S. section 561.20.~~
- ~~(d) The owners and operators of country clubs, which are defined as establishments where the primary activities include the operation of an outdoor golf course, and where food and beverages are served in a restaurant clubhouse, in addition to the hours of operation permitted under (c) hereof, may offer for sale, deliver, service or permit to be consumed upon the premises, beer, wine or alcoholic beverages on any Sunday between the hours of 8:00 a.m. and 12:00 noon, provided the operator of such country club holds a state beverage department license for the sale of such alcoholic beverages. For the purposes of this section, an "outdoor golf course" shall mean any bona fide regular, standard golf course consisting of at least nine (9) holes with clubhouse, locker rooms and attendant golf facilities. A "restaurant clubhouse" for the purposes of this section shall have the facilities of a "restaurant" as defined in (c) hereof.~~
- ~~(e) The closing hours herein previously provided may, by council approval, be extended for a period of up to two (2) hours on the morning of January 1st of each calendar year.~~

~~Sec. 3-3.- Sale to intoxicated persons prohibited.~~

~~No person licensed hereunder and no agent, servant or employee of any licensee hereunder shall give, sell, deliver, serve, or permit to be served any alcoholic beverage including wines and beers to any person who is intoxicated.~~

~~Sec. 3-4. -- Illicit alcoholic beverages; seizure and forfeiture of transporting vehicle.~~

~~Any vehicle, vessel, aircraft or any animal used in the transportation or removal of, or for the deposit or concealment of any illicit liquor still or stilling apparatus or any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage containing more than one (1) percent of alcohol by weight, or any alcoholic beverage, commonly known and referred to as "moonshine whiskey," where seized by a municipal police officer within the corporate limits of the town, shall be forfeited to the town, as is authorized and provided for by the general state law in such case, and all sums received therefrom shall go into the general operating fund of the town.~~

~~Sec. 3-5. -- Penalty for violations.~~

~~Any person, or any agent, servant or employee of any licensee hereunder violating the provisions of this chapter shall upon conviction be punished as provided by section 1-9. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.~~

EXHIBIT "C"

~~Sec. 12-34(C) Alcoholic Beverage Establishments:~~

~~(1)~~

~~Separation requirements:~~

~~(a)~~

~~Places for the sale of liquor for off-site consumption, including package liquor stores, shall be subject to the following locational limitations and requirements:~~

~~1.~~

~~Any such establishment shall be located at least twelve hundred (1,200) feet from any other similar establishment. The required one thousand two hundred foot minimum separation shall be measured from the nearest point of one (1) establishment to the nearest point of the other establishment in a straight line.~~

~~2.~~

~~Any such establishment shall be located at least one thousand two hundred (1,200) feet from any elementary, middle or high school, whether public, private or parochial, or any church. The required one thousand two hundred foot minimum separation shall be measured from the front or main entrance door of the establishment to the nearest point of the school or church structure in a straight line.~~

~~3.~~

~~The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the proposed establishment and any applicable above uses.~~

~~(b)~~

~~Places for the sale and consumption of bottled, canned or mixed liquor, beer and/or wine on premises, including cocktail lounges, saloons, nightclubs and/or bars, shall be subject to the following locational limitations and requirements:~~

~~1.~~

~~Any such establishments shall be located at least five hundred (500) feet from any other similar establishment. The required five hundred foot minimum separation shall be measured from the nearest point of one (1) establishment to the nearest point of the other establishment in a straight line.~~

~~2.~~

~~Any such establishment shall be located at least twelve hundred (1,200) feet from any elementary, middle or high school, whether public, private or parochial, or any church. The required one thousand two hundred foot minimum separation shall be measured from the front or main entrance door of the establishment to the nearest point of the school or church structure in a straight line.~~

~~3.~~

~~The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the proposed establishment and any applicable above uses.~~

~~(e)~~

~~Places for the sale and consumption of beer and/or wine on premises which is strictly as accessory to meals, including restaurants and diners, shall be subject to the following locational limitations and requirements:~~

~~1.~~

~~Any such establishment shall be located at least five hundred (500) feet from any elementary, middle or high school, whether public, private or parochial, or any church. The required five hundred foot minimum separation shall be measured from the front or main entrance door of the establishment to the nearest point of the school or church structure in a straight line.~~

~~2.~~

~~The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the proposed establishment and any applicable above uses.~~

~~(d)~~

~~The separation requirements and limitations specified under subparagraphs (a) through (c) above shall not be applicable to any church operated from a store front or from a bay in a shopping center or from any portion of an office building or from any home or other structure, unless the church is the sole owner of the property in its entirety from which the church is operating.~~

~~(e)~~

~~The separation requirements and limitations specified under subparagraphs (a) through (d) above shall not be applicable to establishments for the sale of alcoholic beverages for consumption on or off the premises which conform to the following:~~

~~1.~~

~~The establishment is part of and inside of a hotel having more than fifty (50) guest rooms and entrance to the establishment is from~~

~~within the hotel with no outside direct entrance to the establishment. There shall be no show window, display, sign or other indication of the existence or location of the establishment visible from the exterior of the building other than a lounge sign and/or a sign indicating dancing and entertainment. There shall be no bar, cocktail, beer, wine, liquor or similar sign visible from the exterior of the building, including no window signs.~~

~~2.~~

~~Private clubs where only members and their guests are served and there are no indications on the exterior of the building that alcoholic beverages may be served therein.~~

~~3.~~

~~Night clubs shall be subject to the separation requirements specified under subparagraph (1)(a) above from schools and churches, but shall not be subject to a separation requirement from any other establishment if conforming to item 1.~~

~~4.~~

~~Restaurants having a roofed-in floor area for dining tables, chairs and/or booths accommodating not less than fifty five (55) seated patrons, and are regularly served complete meals, shall not be subject to a separation requirement from schools, churches or any other establishment; provided, however, such restaurant has no public bars and there are no indications on the exterior of the building that alcoholic beverages may be served therein including no window signs.~~

~~(2)~~

~~*Beer and wine package stores.* There shall be no separation requirement or limitation applicable to the location of places for the sale of beer and wine for consumption off the premises.~~

~~(3)~~

~~*Application to new churches, schools.* Where an establishment as defined under subparagraph (1)(a), (1)(b) or (1)(c) above is located and begins operation in conformity with the separation requirements applicable at that time, the subsequent locating of a school or church within the currently required separation zone shall not be construed to put such existing establishment in violation of this paragraph (C), provided that the business is not discontinued for a period of more than six (6) months, and provided that establishments defined under sub paragraph (1)(b) shall be prohibited from selling alcoholic beverages between 4:00 a.m. and 4:00 p.m.~~

Town Alcoholic Beverage Regulations - Questions and Answers¹

Key	Question	Answer
State Licensing Facts	How does the State of Florida address hours of sale of alcoholic beverages?	Section 562.14, F.S., prohibits the sale or consumption of alcoholic beverages on a licensed premises between midnight and 7AM <i>except as otherwise allowed by county or municipal ordinance</i> . In other words, if the Town had no ordinance regulating the hours of sale and/or consumption, a midnight to 7AM restriction would automatically apply. ²
	Does the State of Florida address distance separation requirements?	Sec. 562.45(2)(a), F.S. acknowledges the authority of local governments to regulate the hours of operation and location of businesses but mandates minimum 500ft. separation between a bar and any K-12 school, except where specifically authorized by the local government through a rezoning action.
	What is the role of the state in the regulation of alcoholic beverages?	<p>The state has numerous licensing categories and rules related to the production, sale, transportation and consumption of alcoholic beverages. State regulations primarily address issues of taxation and general public health, safety and welfare.</p> <p>Most state alcoholic beverage licenses require a demonstration that the use complies with the zoning rules of the county or municipality. In such cases, the state application form includes a box to be completed by the local zoning official. When presented with such an application, the Planning and Zoning Division will review for compliance with Town rules such as permitted uses, distance separation, parking and signage. A new state license is generally required for any change of location, ownership or license category.</p>
	What are the most common state license categories?	<p>2APS = Retail sale of beer and wine</p> <p>3PS = Retail sale of beer, wine and liquor</p> <p>2COP = beer and wine for consumption on premises</p> <p>4COP = beer, wine or liquor for consumption on premises</p>
	What are quota licenses?	The state limits the number of 3PS and 4COP licenses issued in each County. Large, full service restaurants that derive at least 51% of revenue from food and non-alcoholic beverages can qualify for a special SRX license , which provides an exemption from the quota.

¹ This document is intended as a guide to assist in the review of proposed regulations but should not be used as the sole source of information for business decisions concerning existing or proposed alcoholic beverage establishments. Individual properties may have unique circumstances, such as a prior variance or legal agreement, which may affect the applicability of Town regulations.

² The first Town ordinance was 1961-221.

Key	Question	Answer
Current Town Regulations	What are the current Town limitations on the hours of retail sales?	Retail stores, including liquor stores, grocery stores and convenience stores are prohibited from selling alcoholic beverages between the hours of 2:00AM and 7:00AM. The restriction on sales between 2:00AM and Noon on Sunday was repealed by Ordinance 2013-17.
	What are the current limitations on hours of sale and consumption for restaurants and bars?	Bars and some restaurants are prohibited from serving between 2:00AM and 7:00AM (3:00AM and Noon on Sunday) Bona Fide Restaurants ³ are prohibited from serving between 4:00AM and 7:00AM (4:00AM and Noon on Sunday)
	Are any existing bars, restaurants or liquor stores in the Town of Davie “grandfathered” or otherwise not subject to the above-described limitations on hours ?	No. These provisions apply to all properties within the Town of Davie, regardless of the zoning district and regardless of when a property may have been annexed into the Town.
	What are the current zoning standards for alcoholic beverage establishments?	*Refer to APPENDIX 1 .
	Are any existing bars, restaurants or liquor stores in the Town of Davie “grandfathered” or otherwise not subject to the above-described zoning standards ?	A business that was lawfully established prior to adoption of a current distance separation requirement is not considered in conflict with current standards provided that the business is not discontinued for more than 6 months.

³ “Bona Fide Restaurant” is defined as having at least 2,500 sq. ft. of serving area, deriving at least 51% of its revenue from food and non-alcoholic beverages and holding a special “SRX” license from the State of Florida.

Key	Question	Answer
Proposed Regulations	What changes are proposed to the Town's alcoholic beverage regulations?	The zoning standards and the provisions hours of operation are merged into a single section of the zoning code and any outdated or unnecessary provisions are proposed to be repealed. Refer to APPENDIX 2 for more detail.
	What types of businesses are not affected by the proposed changes?	Retail sales of beer and wine only, such as grocery stores and convenience stores. Restaurants and bars which do not sell or serve alcoholic beverages on premises between the hours of 2AM and 7AM (2AM and Noon on Sunday).
	If a restaurant, bar or liquor store meets all separation requirements at the time it is established but a school or other protected use is later established nearby, does the bar or restaurant have to close down?	No. A lawfully established restaurant, bar or liquor store would not be considered in conflict in this situation unless such business is closed for more than one year.
	How would an extended hours license work?	A Town extended hours license would allow a qualifying restaurant or bar to sell and serve alcoholic beverages between the hours of 2AM and 4AM only. If approved, the license would expire October 1 st of each year but could be renewed.
	What types of issues would be considered in the application process?	The nature and type of law enforcement activities generated by the business in the past, whether the owners or managers have been convicted of criminal offenses and whether the extend hours is likely to have a negative effect on surrounding neighborhoods.
	How much would an extended hours license cost?	Fees would be established by separate resolution but the current proposal is for an initial application fee of \$300-\$700, depending upon floor area, with a \$200 annual renewal fee.
	Would an application require a public hearing?	Notice of the application would be mailed to surrounding properties and the Town Administrator would consider any public comments submitted prior to the decision. However, no public hearing would be required.
	What are the penalties of violating the terms of an extended hours license?	In addition to other Code Compliance measures, an extended hours license may be suspended by the Chief of Police immediately upon the finding of a violation. The decision to suspend a license may be appealed to the Town Administrator. A decision to suspend or revoke a license may also be appealed to the Town Council.

APPENDIX 1

Alcoholic Beverage Hours – Summary of Proposed Changes

Code Sec.	Existing Regulation	Proposed Change
3.2	<p>Restaurant: No COP 4AM-7AM (3AM-Noon Sunday)</p>	<p>Sale for COP 2AM-7AM declared a privilege.</p> <p>Restaurant: No COP 2AM-7AM (2AM-10AM on Sunday)</p> <p>Exception: Bona fide restaurant may serve 7AM-10AM Exception: Extended Hours License</p>
3.2	<p>Bars/lounges: No COP 2AM-7AM (3AM-Noon Sunday)</p>	<p>Bars/lounges: No sale for COP 2AM-7AM (2AM-10AM on Sunday)</p> <p>Exception: Extended Hours License</p>
3.2	<p>Retail: No sales 2AM-7AM (3AM-7AM Sunday)</p>	<p>Retail: No sales 2AM-7AM (any day)</p>
3.2	Country club/golf course permitted to sell at retail or for COP 8AM-Noon on Sunday.	Retained.
3.2	2 hour extension for on the morning of January 1 (by Council approval)	Retained, but extension is automatic unless suspended.
3.3	Sale to intoxicated persons prohibited	Retained.
3.4	Vehicle used in concealment of illicit beverages subject to seizure.	Repeal (rely on State Statutes)
3.5	Violations subject to penalty per Sec. 1-9 (general)	Repeal (not necessary to define penalties since this is done globally through Sec. 1-9 and Ch. 6.)

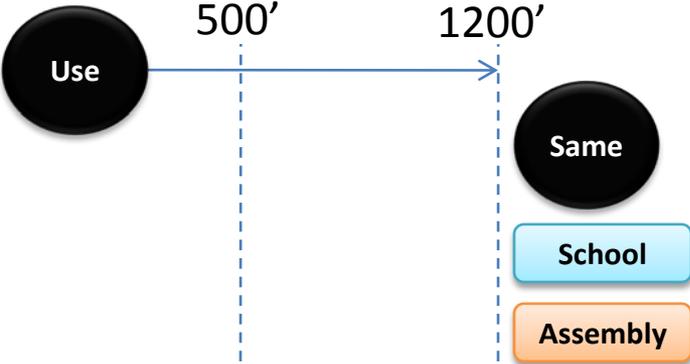
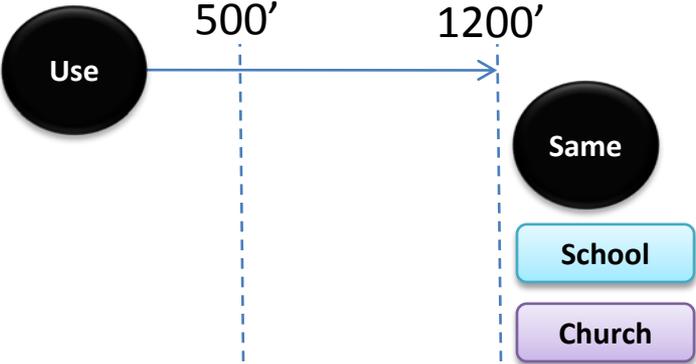
Appendix 2 – Zoning Regulations

Retail Sales

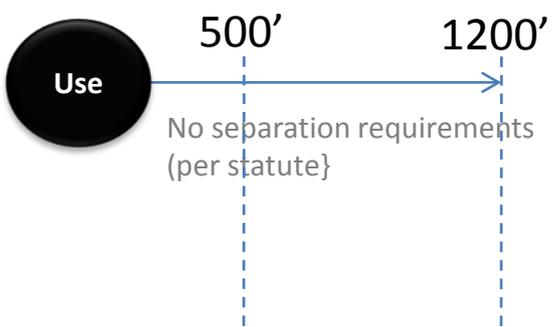
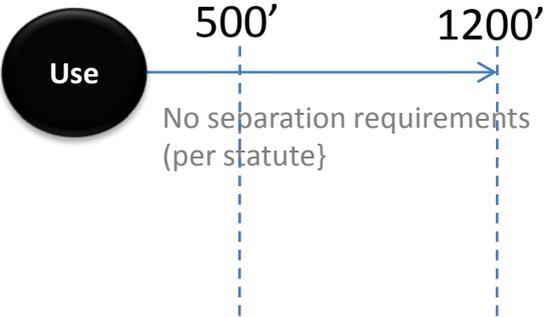
EXISTING

PROPOSED

Liquor Store



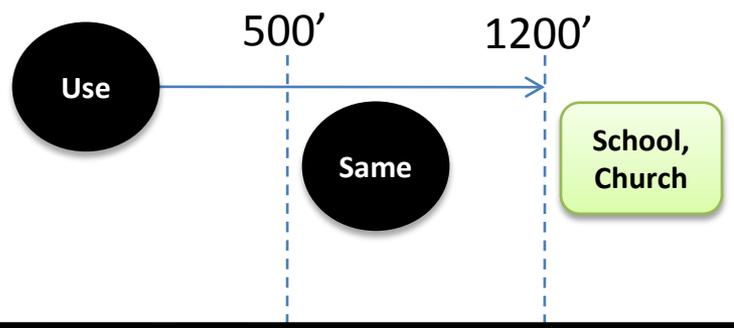
Retail Store



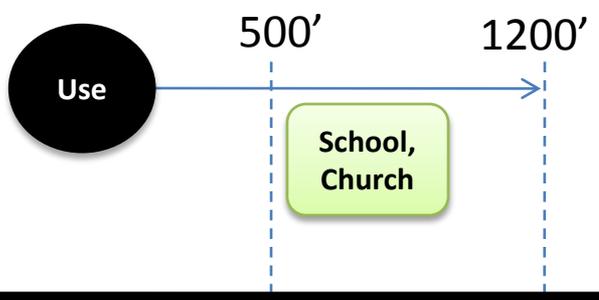
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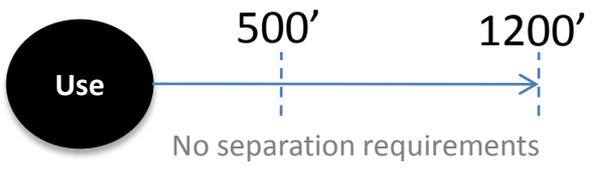
Bar or Restaurant – Beer/Wine/Liquor



Restaurant 1– Beer/Wine Only With Meal

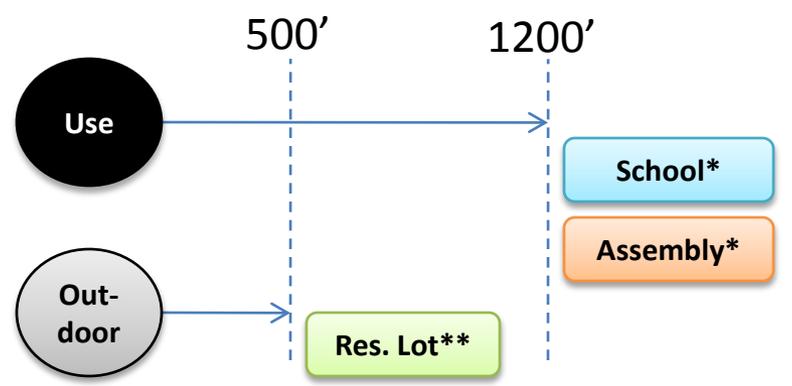


Restaurant 2– Beer/Wine /Liquor*



*Min. 55 seat rest. with no public bars no exterior signage

Any Consumption on Premises



*Except RAC Zoning District
**100ft when in RAC district