

MODEL ORDINANCE

SERVER-SELLER TRAINING

Oakland Park, Florida

(Ord. No. O-2009-001, § 4, 2-4-09)

Secs. 3-33--3-37. Reserved.

Sec. 3-32. Personal alcoholic beverage seller/server's education, training and certification.

(a) *Declaration of intent.* It is the legislative intent of the city commission to require that all persons employed as managers, beverage sellers/servers, store clerks and all other persons who sell alcoholic beverages in any existing and new open past midnight permit type alcoholic establishments as provided for in section 3-23 and that are licensed by the city or in any other capacity as bars, nightclubs, restaurants, restaurant bars, convenience stores, gasoline service stations, liquor stores, package, food and grocery stores, supermarkets and like retail establishments that have a state approved alcoholic beverage license possess a personal alcoholic beverage seller/server's education/training certification that is accepted by the city manager if the course/class and/or program with a curriculum that fully adheres to the following education/training objectives:

- (1) An understanding of the importance of responsible alcohol sales/service.
- (2) Knowledge of the laws that control the sale/service of alcohol.
- (3) Knowledge of how to check IDs, refuse service to underage and intoxicated customers, prevent alcohol sales to underage persons.
- (4) The awareness that there is a positive relationship between responsible alcohol sales/service and profitability.

This places responsibility directly on the owner, manager and/or employee to comply with city and state laws and codes regarding alcoholic beverage sales and also be subject to the penalties as identified in subsection 3-23(b) and section 3-26. This education/training certification is granted to the owner, manager and/or employee and is not attached to a specific employment situation or city occupational business license other than the open past midnight permit.

(b) *Requirements.* No person shall work as a manager, beverage seller/server, store clerk, and/or in any other capacity in such open past midnight permit type establishments granted by the city including any bars, nightclubs, restaurants, restaurant bars, convenience stores, gasoline service stations, liquor stores, package, food and grocery stores, supermarkets and like retail establishments that have a state approved alcoholic beverage license where such person may sell or deliver alcoholic beverages in or from premises licensed under Chapter 7 of the City of Oakland Park Code of Ordinances, and no licensee shall permit any such person to be so employed, unless such person, within seven (7) days after being first employed, shall provide a personal alcoholic beverage seller/server's education/training certification to the city to engage in such business. No person may be so employed to sell alcoholic beverages for any length of time the applicant's certification is not obtained.

(c) *Possession of certification.* The holder of a personal alcoholic beverage seller/server's certification must provide a copy to the city, possess and provide proof of certification at all times while on duty or in the employment at any past midnight type bar, nightclub, restaurant,

restaurant bar, convenience store, gasoline service station, liquor store, food and grocery store, supermarket and like retail establishments that have a state approved alcoholic beverage license within the City of Oakland Park. Failure to possess or provide proof of the seller/server's education/training certification will subject the alcoholic beverage establishment owner/manager to the penalties as identified in subsection 3-23(b) and section 3-26. In addition, the owner/manager of any such existing and/or new open past midnight type establishment licensed by the city that does not notify their employee of the needed possession of the education/training certification requirement will be subject to the penalties identified in subsection 3-23(b) and section 3-26.

(d) *Posting of sign.* Every owner of an existing or new open past midnight permit type establishment licensed by the city or in any other capacity such as bars, nightclubs, restaurants, restaurant bars, convenience stores, gasoline service stations, liquor stores, food and grocery stores, supermarkets and like retail establishments that have a state approved alcoholic beverage license and that sell alcoholic beverages pursuant to the provisions of this article shall post a copy of all operational standards, training requirements and any special conditions of the permit and participation in a state-accepted personal alcoholic beverage seller/server's education/training certification class/course and/or program in at least one (1) prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment. Failure to provide an approved alcoholic beverage sales sign and proof of certification will subject the alcoholic beverage establishment owner/manager to the penalties as identified in subsection 3-23(b) and section 3-26.

(Ord. No. O-2009-001, § 4, 2-4-09)

Secs. 3-33--3-37. Reserved.

Sec. 3-23. Permits required for premises to remain open past midnight; revocation, suspension of state beverage license.

(a) *Permits required.*

(1) All vendors who are licensed by the state division of beverage desiring to remain open for business for the purposes of selling, offering for sale, delivery, serving or permitting liquors, beers or wines of any alcoholic content between the hours of midnight and 2:00 a.m. on weekdays and midnight and 3:00 a.m. on Sundays shall make application with the city manager for an open past midnight permit, at such time as the vendor applies for an occupational license pursuant to Chapter 7, Article II, of the Code of Ordinances.

(2) The open past midnight permit application shall be on forms provided by the city and shall contain the following:

- a. The name of applicant;
- b. The location where the business is to be conducted;
- c. The names of the individuals operating the business under their own names or under a trade name;
- d. The names and addresses of the officers and all persons having a financial interest of five (5) percent or more in the vendor;
- e. Photocopies of the state application for the state beverage license and said license;
- f. The applicant's current City of Oakland Park occupational license number;
- g. An application fee in accordance with the following schedule:

Nonprofit fraternal, civil organization . . . \$1,500.00
Vendors licensed for off-premises consumption only . . . 2,000.00
Restaurants, restaurant bars, hotel and motel bars . . . 2,000.00
Bars . . . 2,000.00

(3) The city manager or his designee shall review the open past midnight permit application and, if the application is complete, a permit shall be issued to the vendor to remain open between the hours of 12:01 a.m. and 2:00 a.m. on weekdays and 12:01 a.m. and 3:00 a.m. on Sundays.

(4) Such open past midnight permit shall be renewed annually on or before the thirtieth day of September, unless it is suspended or revoked or unless there is a change in ownership, change in ownership of shares or change in location.

(5) The open past midnight permit application fee for such permit issued on or after the first day of April shall be one-half ($\frac{1}{2}$) the rate in accordance with the appropriate fee schedules.

(6) In order for an alcoholic beverage establishment to be eligible for an open past midnight permit, the privilege to sell, offer for sale, deliver, serve or permit liquors, beers or wines of any alcoholic content between the hours of midnight and 2:00 a.m. on weekdays and midnight and 3:00 a.m. on Sundays shall be granted by the city manager if an establishment and their employees participate in a state-accepted personal alcoholic beverage seller/server's education, training and certification program as described in section 3-32.

(7) No person shall work as a manager, alcoholic beverage seller/server, store clerk, and/or in any other capacity in any alcoholic beverage establishment open past midnight until certification by all applicants of a state-accepted personal alcoholic beverage seller/server's education, training and certification class/course and/or program is obtained, provided to the city and a open past midnight permit is granted by the city manager.

(b) *Permit revocation, suspension.* The ability to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage beyond the hour of 12:00 midnight on any day of the week including Sunday, is hereby declared to be and is a privilege subject to termination by the city commission, and no person may reasonably rely on a continuation of that privilege.

(1) If at any time the city manager determines that any person, vendor, distributor, or any place of business is operating in any manner harmful to the public health, safety or welfare, or has been convicted of a violation of the laws of the United States, state of Florida, and Code of Ordinances of the City of Oakland Park, by the permittee or his or its agents, servants, or employees on the license premises or elsewhere while in the scope of employment or has had his state beverage license revoked or suspended by the division of alcoholic beverages of the department of business regulation or has violated a rule or regulation promulgated by the Florida division of beverage, he shall place on the city commission agenda the matter of revoking the above privilege.

(2) Such agenda item shall be publicly advertised in a newspaper of general circulation and written notice of the charges against the person, permittee, vendor, distributor or place of business shall be sent to him at least fourteen (14) days in advance and shall also contain the date, time and place of such agenda item. Said notice shall also advise the person of his right to be heard, of his right to be represented by counsel, of his right to present sworn testimony and evidence on his behalf, and his right of appeal to circuit court if necessary.

(3) After consideration of the matter and allowing the person to be heard, the city commission may revoke or condition the privilege. The criteria to be used by the city manager and city commission shall be the criteria specified in subparagraphs (3)(a), (b), (c), (d) and (e) below:

- (a) The amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to the adverse impact on adjacent residential areas of any illegal or hazardous parking.
- (b) The amount and degree of law enforcement activities generated by the extra hours of operation, both outside and inside the particular location, with particular emphasis on the vandalism, noise, vehicular use by patrons and illegal activity of any kind by employees, patrons or others associated with the establishment during or immediately after the extra hours of operation.
- (c) The adverse effects, if any, that the extra hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or exterior lighting on nearby residential properties.
- (d) Such licenses shall only be granted to those establishments which are wholly enclosed, soundproofed, and air-conditioned, and any windows, doors or other opening kept closed, except for normal and emergency ingress and egress, in order that noise and music emanating there from will not disturb the peace and quiet of the neighborhood; provided, however, that the city commission may, in its discretion, grant an extra hours license to an establishment that is not wholly enclosed, soundproofed and air-conditioned, upon a showing that said establishment does not disturb the peace and quiet of the surrounding neighborhood.
- (e) The city commission may require, as a condition of the privilege of extra hours of operation, compliance with any reasonable conditions deemed by the commission to be necessary to mitigate or eliminate the adverse effects of such extra hours. These conditions may include, without being limited to, provision by the owner or operator of the premises to provide, at his expense, additional off-street parking, security personnel and screening and buffering from nearby properties.
- (f) Should the permit be revoked or conditioned, the person, permittee, vendor, distributor or place of business may seek review of such action before the city commission after three (3) months. The commission may then modify or refuse to modify its action. Only one (1) such review shall be given within a twelve-month period.

Sec. 3-26. Penalty.

Any person or any agent, servant or employee of any licensee hereunder violating the provisions of this chapter shall upon conviction be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment, such fine and punishment [being] in the discretion of the municipal court. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense. (Ord. No. O-76-16, 6-16-76)