

1
2 AN ORDINANCE OF THE CITY OF BOCA RATON
3 AMENDING CHAPTER 4, CODE OF ORDINANCES,
4 RELATING TO THE REGULATION OF ESTABLISHMENTS
5 SERVING ALCOHOLIC BEVERAGES; PROVIDING
6 DEFINITIONS, IMPOSING SECURITY REQUIREMENTS
7 AND ESTABLISHING RESTRICTIONS ON THE PRESENCE
8 OF INDIVIDUALS UNDER THE AGE OF 21; AMENDING
9 CHAPTER 2, CODE OF ORDINANCES, TO PROVIDE THAT
10 VIOLATIONS OF CHAPTER 4 SHALL FALL WITHIN THE
11 JURISDICTION OF THE SPECIAL MASTER; PROVIDING
12 FOR SEVERABILITY; PROVIDING FOR REPEALER;
13 PROVIDING FOR CODIFICATION; PROVIDING AN
14 EFFECTIVE DATE
15

16 WHEREAS, the City Council recognizes that Section 562.45, Florida Statutes, allows
17 municipalities to restrict the hours of sale, service, and consumption of alcoholic beverages; and

18 WHEREAS, because the sale, service, and consumption of alcohol after 10:00 p.m. in
19 certain types of establishments creates public health, safety, and welfare concerns, the City

1 desires to amend its Code of Ordinances concerning such sale, service, and consumption of
2 alcoholic beverages; and

3 WHEREAS, Florida law prohibits the sale of alcoholic beverages to individuals under
4 the age of twenty-one (21); and

5 WHEREAS, the City Council has determined that the public health, safety and welfare
6 will be best served by prohibiting the admission of unaccompanied persons under the age of
7 twenty-one (21) to certain alcoholic beverage establishments, as defined in the City's Code of
8 Ordinances; now therefore

9
10 THE CITY OF BOCA RATON HEREBY ORDAINS:

11 Section 1. Chapter 4, Alcoholic Beverages, Code of Ordinances, is amended to read:

12 Chapter 4 ALCOHOLIC BEVERAGES*

13 Sec. 4-1. Definitions.

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

17 "Alcoholic beverages" shall mean all beverages containing more than 1 percent of
18 alcohol by weight, measured in the manner described in F.S. § 561.01(4)(b).

19 "Alcoholic beverage establishment" shall mean, for the purposes of this chapter, any
20 establishment with a "4COP" or "14BC" license issued by the State of Florida. A business with
21 an "SRX" license issued by the State of Florida shall not be considered an alcoholic beverage
22 establishment.

23 "Beer" and "malt beverage" shall mean all brewed beverages containing malt.

24 "Nightclub" shall mean, for the purposes of this chapter, any alcoholic beverage
25 establishment where there is a band, orchestra or other form of music or musical entertainment
26 and a floor space for dancing.

1 Sec. 4-2. Hours of operation.

2 No vendor shall sell, deliver or permit to be consumed any alcoholic beverages to any
3 person, or keep his or her place of business open for the sale, delivery or consumption of any
4 alcoholic beverages:

5 (a) On Sunday, between the hours of 2:00 a.m. and 1:00 p.m.

6 (b) On any day of the week other than Sunday between the hours of 2:00 a.m. and
7 8:00 a.m.

8 Sec. 4-3. Location of business restricted; survey required.

9 (a4) The sale of alcoholic beverages for consumption on the premises within 500 feet
10 of any established church or school is prohibited. The distance shall be measured from the
11 center of the main entrance of the proposed business and follow the usual and customary path
12 of pedestrian travel to the center of the main entrance of the church or, with respect to schools,
13 shall be measured to the nearest point of the school grounds.

14 (b2) This section shall not be construed or held to affect the rights of any existing
15 established business or its successors or assigns with respect to the location of the businesses.

16 (c3) Whenever a business has been lawfully established and thereafter a church or
17 school is established within a distance otherwise prohibited by this section, the establishment of
18 the church or school shall not be cause for the revocation of the certificate of use or otherwise
19 prevent the continuation of the business.

20 (d4) Applicants for certificate of use and licenses from the state who are required to
21 show that the location of the proposed business is in conformity with zoning and other
22 applicable regulations of the city shall furnish a survey made by a registered surveyor showing
23 that the location of the premises of the applicant conforms to this section.

24 (e5) Nightclubs, cabarets, drinking places and other establishments which depend
25 upon the sale of alcoholic drinks and beverages for more than 50 percent of the establishment's

1 total operating revenue shall not be allowed as permitted uses in certain zoning districts lying
2 east of the Intracoastal Waterway as specified in chapter 28 of the Code.

3 Sec. 4-4. Consumption in public places.

4 It shall be unlawful for any person to consume an alcoholic beverage of more than 1
5 percent alcohol content by volume on any public street, sidewalk, right-of-way, park, beach or
6 upon the premises of a retail establishment while outside the confines of the structure on the
7 premises when the main use of the establishment is the sale of alcoholic beverages or upon any
8 parking lot or sidewalk on business, industrial or public or institutional property where the public
9 has a right to travel, except as specifically provided in section 4-5.

10 Sec. 4-5. Alcoholic beverage permits.

11 (a) The city manager may issue a permit to allow the sale, possession, and
12 consumption of alcoholic beverages incidental to a not-for-profit organization's special event.
13 Such permit shall be for the sale, possession and consumption of beer and wine only and may
14 be issued to a not-for-profit organization no more than one time per year provided:

15 (1) The event will be open to the general public.

16 (2) Proof of licensing by the State of Florida, Department of Business Regulation,
17 Division of Alcoholic Beverages and Tobacco ("one day permit") is provided.

18 (3) Proof of liability insurance listing the city as an additional insured is provided.

19 (4) Organization's nonprofit certification from the State of Florida must be current
20 and valid.

21 (5) The event permit request is to be submitted to the city manager a minimum of 30
22 days prior to the scheduled event, and all other city, county or state permits, if required, need to
23 be approved and enclosed.

24 (6) No glass or metal containers are allowed.

25 (b) In determining whether such permit should be issued, the city manager may
26 consider, among other factors, the nature of the event, the anticipated number, age and conduct

1 of persons attending the event, the days and time of the event, the uses of areas near the
2 special event and the anticipated impact of the sale, possession or consumption of alcoholic
3 beverages would have on the public place, its uses and the special event. The city council may
4 reverse or amend the decision of the city manager as it deems appropriate.

5 Sec. 4-6. Consumption, sales, service, prohibited at certain times; security required;
6 persons under 21 years of age prohibited.

7 (a) After 10:00 p.m., all nightclubs shall provide interior security personnel of a
8 number equaling one security person per each occupancy level (as established by the City's
9 Fire Marshal pursuant to applicable regulations) of 150 occupants, or any portion thereof. For
10 example, if the occupancy level of a nightclub is 500, four interior security personnel are
11 required. If the occupancy level is 50, one interior security person is required.

12 (b) All nightclubs shall maintain a security camera system capable of recording and
13 retrieving video images. Cameras must be activated and recording video during all hours of
14 operation and shall continuously capture interior and exterior images of the entrance and exit
15 doors. Recorded video images shall be stored for a minimum of 30 days. Each nightclub
16 required to have cameras pursuant to this provision shall prominently display signage on the
17 premises to notify patrons of the presence and use of security cameras.

18 (c) All alcoholic beverage establishments shall maintain their premises, and any
19 accessory premises such as parking lots or open space adjacent to such premises, clean and
20 free from trash and debris at all times.

21 (d) It shall be unlawful for persons under the age of 21 to enter, patronize, visit, be
22 admitted to, or allowed access in any alcoholic beverage establishment between the hours of
23 10:00 p.m. and 8:00 a.m., except as hereinafter provided. This restriction shall not apply to:

24 (1) Persons accompanied by either of their parents (natural, adoptive, or stepparent)
25 or legal guardian (appointed by a court);

1 (2) An alcoholic beverage establishment during any time period in which it is neither
2 serving or selling alcoholic beverages to the public, nor allowing alcohol to be consumed on its
3 premises, provided that, before anyone under the age of 21 is admitted onto the premises, all
4 alcoholic beverages previously served to customers, or being consumed by customers, are
5 removed from customer access and otherwise discarded, and the establishment's entire
6 inventory of alcoholic beverages is properly secured from public access. The sale, service or
7 consumption of alcoholic beverages may not resume until all persons under the age of 21 have
8 vacated the premises;

9 (3) Members of the military or armed services with proper military identification to
10 show that they are currently on active duty with a branch of the United States military;

11 (4) Persons employed by or at the alcoholic beverage establishment.

12 Section 2. Section 2-113(2) is amended to insert a new subparagraph (b) as follows:

13 Section. 2-113. Special masters-Jurisdiction.

14 * * *

15 (2) Alleged violations of the following provisions of the Code of Ordinances shall be
16 within the jurisdiction of the special master:

17 * * *

18 (b) Chapter 4, Alcoholic Beverages;

19 * * *

20 [Note: The remaining subsections are renumbered.]

21 Section 3. If any section, subsection, clause or provision of this ordinance is held
22 invalid, the remainder shall not be affected by such invalidity.

23 Section 4. All ordinances and resolutions or parts of ordinances and resolutions and
24 all sections and parts of sections in conflict herewith shall be and hereby are repealed.

25 Section 5. Codification of this ordinance in the City Code of Ordinances is hereby
26 authorized and directed.

Section 6. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Boca Raton this _____
day of _____, 2009.

CITY OF BOCA RATON, FLORIDA

ATTEST:

Susan Whelchel, Mayor

Sharma Hagerty, City Clerk

Approved as to form:

Diana Grub Frieser
City Attorney

O09510

COUNCIL VOTE			
	YES	NO	ABSTAINED
MAYOR SUSAN WHELCHER			
DEPUTY MAYOR SUSAN HAYNIE			
COUNCIL MEMBER ANTHONY MAJHESS			
COUNCIL MEMBER MICHAEL MULLAUGH			
COUNCIL MEMBER CONSTANCE J. SCOTT			