

TEMPLE TERRACE CODE
CHAPTER 3 – ALCOHOLIC BEVERAGES

Section 3.300 DEFINITIONS.

The words and terms “*beverages*,” “*beer*,” “*wine*,” “*liquor*,” “*sale*,” “*licensed premises*” and all other words and terms used in this Chapter shall have the same meaning as are and shall be defined by the laws of the State of Florida unless otherwise defined herein. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92; Ord. No. 919, 5-7-96*)

“*School*,” is defined as a public school or other school (including private or parochial), either offering a curriculum substantially equivalent to that of a public school with comparable grades and meeting the requirements of the State Department of Education or an educational facility or school offering a similar curriculum designed to remediate or supplement educational instruction. (*Ord. No. 919, 5-7-96; Ord. No. 1098, 10-7-03*)

Section 3.305 ADOPTION OF STATE BEVERAGE LAW.

Any provisions of Chapters 561, 562, 563, 564, 565, 566, 568 and 569, Florida Statutes, which are together known as the beverage law, and which are not expressly contained herein, shall be considered to be adopted by the Mayor and City Council and made a part of this Chapter by reference, and may be enforced by Police Officers of the City as well as by officers of the State Beverage Department and other State officers charged with the enforcement of the beverage laws; provided, no penalty shall be imposed for violation of such laws in excess of the fine and/or imprisonment as provided in Section 1.145 of this Code. (*Ord. No. 83, 6-6-61; Ord. No. 337, 2-15-77; Ord. No. 820, 11-3-92*)

Section 3.310 SALE ON LICENSED PREMISES ONLY.

It shall be unlawful for alcoholic beverages to be sold except on licensed premises. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.315 SALE TO MINORS AND OTHERS – PROHIBITED.

No person licensed under the provisions of this ordinance shall give, sell, serve, deliver, or permit to be served any alcoholic beverages or liquors, including wines and beers, as follows:

- (a) To any person less than twenty-one (21) years of age.
- (b) To any person who is intoxicated.
- (c) To any patient under the supervision or control of any state hospital, whether on furlough or otherwise. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.320 SAME – ALCOHOLIC BEVERAGES DEFINED.

The term “*alcoholic beverages*” as used in this Chapter shall include all beverages containing more than one (1%) percent of alcohol by weight.

In all prosecutions for violations of Section 3.315, proof that the beverage in question was and is known as whiskey, moonshine whiskey, shine, rum, gin, brandy, wine, beer, or other similar name or names, shall be prima facie evidence that such beverage is an alcoholic beverage as defined by this Section. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.325 HOURS BEVERAGES MAY BE SOLD.

- (a) **For consumption on premises.** It shall be unlawful for any licensee or other person to sell, serve, deliver or permit to be sold, served or delivered any alcoholic beverages containing more than one (1%) percent of alcohol by weight in any place in the City holding a license under the State Beverage Department, or in any public place within the City for consumption on the premises during the following hours:

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- a. The restaurant encompasses at least two thousand-five hundred (2,500) square feet of service area under a permanent roof; and
 - b. The restaurant shall be equipped with full accommodations for the service of full course meals to one hundred-fifty (150) or more patrons at one time; and
 - c. Alcoholic beverages shall be served only during the hours in which the restaurant is serving full course meals; and
 - d. At least fifty-one (51%) percent of the restaurant's gross revenues are attributable to the sale of food; and
 - e. The restaurant possesses all of the qualifications necessary to obtain State of Florida 4-COP-SX beverage license.
- (5) Restaurants meeting the following criteria may serve beer and wine, without regard to separation distances between one another or between themselves and any other establishment selling alcoholic beverages, whether such sales are for on-premises or off-premises consumption, or a "protected facility:"
- a. The restaurant shall encompass at least one thousand two hundred-fifty (1,250) square feet of service area, under a permanent roof; and
 - b. The restaurant shall be equipped with full accommodations for the service of full course meals to at least fifty (50) patrons at one time; and
 - c. Alcoholic beverages shall be served only during the hours in which the restaurant is serving full course meals; provided, however, that no alcoholic beverages shall be served or sold before 11:00 a.m. or after 11:00 p.m.; and
 - d. At least seventy (70%) percent of the restaurant's gross revenues are attributable to the sale of food; and
 - e. Alcoholic beverages shall be served to patrons at the table and no bar or cocktail lounge shall be located in the restaurant; and
 - f. The restaurant shall not provide drive-through or drive-up facilities; and
 - g. The restaurant possesses all of the qualifications necessary to obtain a State of Florida 2-COP beverage license. (*Ord. No. 978, 6-2-98*)
- (6) There are no required separation distances between establishments selling beer, or beer and wine, when such sales are incidental to the establishment's principal use (e.g., food stores, drug stores, gas marts, convenience stores, etc.), and such sales are in sealed containers for off-premises consumption only. This exemption from separation distance does not apply between said establishments and any "protected facility," which separation distance is four hundred (400') feet. (*Ord. No. 936, 12-3-96*)
- (7) Any restaurant which sells alcoholic beverages for on-premises consumption shall maintain separate books and records reflecting the gross sale of non-alcoholic beverages for each calendar year. Failure to maintain such books and records shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.

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- a. Any such restaurant shall prepare and submit to the City Manager, or his designee, an unaudited report every ninety (90) days and an audited report prepared by a Certified Public Accountant at the end of each calendar year. Failure to file the reports required herein shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property pursuant to said exception and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
 - b. The City Manager, or his designee, may, during normal working hours, request to inspect and audit the books and records of any such restaurant to verify the gross sales of the restaurant. Refusal of an owner or operator of such restaurant to allow said inspection shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
 - c. If the required reports and/or the audit conducted by the City reveal that the combined gross sales of such restaurant do not comply with the requirements of this Section, or if any restaurant fails to submit said reports or audit or in any other way fails to comply with the requirements of this Section, the City Manager, or his designee, shall notify the owner or the operator of the business that the property upon which the business operates has reverted to a dry status and shall notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
 - d. Upon adoption of this Section, the City Manager, or his designee, shall transmit a copy of this Section to all owners or operators of businesses operating pursuant to the aforesaid exception; further, he shall notify all such businesses that if all existing non-compliances with the requirements of this Section are not fully cured and all required reports and audits are not filed within ten (10) days of the date of said notice, said business shall revert to dry status.
- (8) Distance requirements between establishments selling alcoholic beverages, not meeting the criteria established in Subsection (a)(4)a.-e., and Subsection (a)(5)a.-g., above, shall be measured by following the shortest straight line from the main entrance of one establishment selling alcoholic beverages to the main entrance of the other establishment selling alcoholic beverages. Otherwise, distances shall be measured by following the shortest route from the main entrance of any business selling alcoholic beverages to the nearest point of the nearest property line of the site, including the parking areas of related facilities, in which any “*protected facility*,” together with Temple Terrace City Hall, is located. The main entrance of any establishment selling alcoholic beverages shall be the entrance facing the most frequently traveled public thoroughfare adjacent to the property on which the establishment is located. In the event that portion of the establishment which faces the most traveled public thoroughfare has no building entrance, measurement of distance shall be made from the center of that portion of the establishment’s frontage which represents the addressable frontage of the establishment. In the event of any dispute regarding the measurement of distances or the location of the main entrance, the determination of the City Manager shall be conclusive.

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- (9) Notwithstanding the above, alcoholic beverage sales may also be permitted at any bona fide hotel/motel consisting of one hundred (100) guest rooms or more which derives at least 50% of its gross revenue from the rental of hotel or motel rooms; and which possesses all the qualifications necessary to obtain a State of Florida 4COPS beverage license. *(Ord. No. 1016, 7-18-00)*
- (10) Any property owner or other party aggrieved by the distance separation requirements set forth herein may request a waiver from the City Council. The waiver may be granted only if the City Council finds unique or special circumstances applicable to the subject property and that granting the waiver will not have a significant negative impact on surrounding land uses. Except for premises licensed on or before July 1, 1999, and except for locations that are licensed as restaurants, which derive at least fifty-one (51%) percent of their gross revenues from the sale of food and nonalcoholic beverages, an establishment for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the City Council, approves the location as promoting the public health, safety and general welfare of the community through a duly adopted ordinance pursuant to Section 166.041(3)(c), Florida Statutes.
The applicant for a waiver shall:
- a. Provide written justification for granting a waiver to the distance requirements.
 - b. Provide written notice to the owners of “*protected facilities*” and residentially zoned property that are located within the applicable distance requirements to which a waiver is sought advising of the scheduled hearing date and time for the requested waiver. Notices shall be sent by U.S. mail at least ten (10) days, but not more than twenty (20) days, prior to the scheduled hearing for such waiver. If after the notices are mailed the waiver request is continued to a later hearing date at the request of the applicant, then written notice of the new hearing date for the waiver request must be provided to all property owners described herein.
(Ord. No. 1245, 5-19-09)
- (11) Commercial areas within P-D, Planned Developments shall be exempt from the distance requirements set forth herein, but shall comply with minimum distance requirements set forth in the Florida Statutes. Alcoholic beverage sales in such Planned Developments may not take place without the approval of City Council.
(Ord. No. 1245, 5-19-09)

(b) The sale of alcoholic beverages may continue for on-premises consumption only, in conjunction with a club, lodge or golf course, restricted to members and their guests, when such sale was in actual operation and duly licensed by the City and the State of Florida prior to or on the effective date of this Section.

(c) Where the sale of alcoholic beverages is inconsistent with the provisions of this Chapter, said sale may continue in accordance with the following terms and conditions at any place of business which was in actual operation and duly licensed by the City and the State of Florida and which had previous approval as to location by an existing or prior City or County ordinance as of the effective date of this Section:

- (1) Only those classifications of alcoholic beverage licenses which were permitted at any such place of business on the effective date of this Chapter, and no others, are approved; and

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- (2) Any such approved place of business shall continue to comply with the reporting requirements applicable to it at the time it was first licensed or permitted to sell alcoholic beverages in the City; and
- (3) Notwithstanding anything contained hereinabove, as of the effective date of this Section, the sale of alcoholic beverages at any place of business meeting the following criteria shall be discontinued if:
 - a. For a period of more than ninety (90) days, it has been discontinued; and
 - b. Within said ninety (90) day period, the owner or operator of said place of business had not filed a petition to City Council requesting authority to continue to sell alcoholic beverages at said place of business and showing that said sale was discontinued due to fire, casualty, or natural disaster or due to remodeling or reconstruction, in accordance with Section 25.630, Temple Terrace Code of Ordinances.
- (4) The City Manager's determination as to compliance with the terms and conditions of this Section shall be final, subject only to appeal to the City Council.

(d) This Section shall be consistent with Title XXXIV, Chapter 565, Florida Statutes. In the event the Code is silent, such statutory provisions shall dictate.

(Ord. No. 83, 6-6-61; Ord. No. 238, 12-1-70; Ord. No. 241, 1-12-71; Ord. No. 290, 11-20-73; Ord. No. 324, 9-2-75; Ord. No. 334, 1-4-77; Ord. No. 337, 2-15-77; Ord. No. 404, 5-20-80; Ord. No. 543, 3-29-85; Ord. No. 552, 8-6-85; Ord. No. 563, 11-5-85; Ord. No. 624, 8-25-87; Ord. No. 820, 11-3-92, Ord. No. 919, 5-7-96; Ord. No. 936, 12-3-96; Ord. No. 978, 6-2-98; Ord. No. 1016, 7-18-00; Ord. No.1041, 2-20-01; Ord. No. 1058, 12-18-01; Ord. No. 1099, 10-21-03; Ord. No. 1245, 5-19-09)

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Section 3.335 SALE, CONSUMPTION OR POSSESSION OF OPENED OR UNSEALED CONTAINER OF ALCOHOLIC BEVERAGE PROHIBITED IN CERTAIN PLACES.

It shall be unlawful for any person to sell, drink, consume or possess any opened or unsealed container containing an alcoholic beverage, including but not limited to beer and wine, at any of the following places:

(a) On or in any public street, alley, sidewalk, right-of-way or parking lot open to the public in the ordinary course of business.

(b) In any public park. For purposes of this Section, the term “*park*” shall mean all parks and athletic fields, and all grounds used in the City for park or playground purposes, excluding Temple Terrace Golf and Country Club and Golf Course and the Woodmont Clubhouse.

(c) On any City-owned building except when the consumption of alcoholic beverages has been authorized by the terms of any lease or other agreement approved by the City Council.

A person found in or upon any motor vehicle or any other form of conveyance which is located on or in any place described in this Section shall be deemed to be on or in such place. (*Ord. No. 847, 8-17-93; Ord. No. 919, 5-7-96*)

Section 3.340 RESERVED.

Section 3.345 BEVERAGE DEPARTMENT RULES.

Rules of the State Beverage Department, Beverage Tax Division, as promulgated by the Director, together with the amendments thereto, except wherein they conflict with this Chapter, are hereby adopted and made a part of this Chapter by reference. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.350 STATE BEVERAGE CRIMINAL LAWS ADOPTED.

It shall be unlawful for any person to commit within the limits of the City any act which is or shall be recognized by the laws of the State as a crime under the laws of the State concerning the regulation, manufacture, sale, distribution or ownership of intoxicating beverages. Provided, the penalty for violating such laws shall not exceed the fine and/or imprisonment as set forth in Section 1.145 of this Code. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.355 LICENSE; DISPLAY.

All vendors licensed under the provisions of this Chapter shall display their licenses in a conspicuous place on the licensed premises. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.360 SAME – PROOF OF APPROVAL BY STATE BEVERAGE DEPARTMENT; COMPLIANCE WITH FIRE AND HEALTH ORDINANCES.

Before the issuance of any license provided for by this Code, the applicant shall present satisfactory proof to the City Manager of approval of the license by the State Beverage Department for a license to conduct a business for which a City license is sought. Before beginning the operation of such business the licensee shall comply with all provisions of the fire and health ordinances of the City and proof of such compliance shall be by certificates of the heads of the departments or agencies entrusted with the duty of enforcing fire and health ordinances. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

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Section 3.365 TRANSFER OF LOCATION OF PLACE OF BUSINESS

Any licensee may move his place of business and sell at this new place of business upon surrendering his license to the City Manager and making application for a new license, and describing the new location of his business. Upon surrender of such license with the application for a new license in a different location, there shall be issued to such licensee, without payment of any further fee or tax, a new license for the new business, provided that the licensee must comply with all the provisions of this Chapter, other applicable ordinances and State laws, before the issuance of the new license. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.370 REVOCATION OR SUSPENSION-NOTICE TO LICENSEE; PUBLIC HEARING.

Whenever the Mayor and City Council of the City shall find any of the conditions enumerated in Section 3.375 to exist, it shall notify the licensee of the intention to revoke or suspend such license and grant such licensee a public hearing at a time and place specified in such notice and at a time not less than ten days from the date of such notice. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.375 SAME – GROUNDS.

The Mayor and City Council, sitting as a body with the Mayor acting as Chairman, by majority vote of those present are hereby authorized to revoke or suspend any license issued under the provisions of this Code as hereinafter provided, for the following causes:

- (a) Commission of an act amounting to felony under the laws of the State or the Acts of Congress, whether convicted or not.
- (b) Maintaining a nuisance or unsanitary premises used in connection with the sale of beverages licensed under the provisions of this Code.
- (c) Engaging in or permitting disorderly conduct on such premises.
- (d) For failure to comply with any provisions of the fire prevention ordinances of the City after reasonable notice shall have been given to the licensee to eliminate or correct any condition which may exist there in violation of such ordinances.
- (e) For failure to comply with any provisions of the health ordinances of the City after reasonable notice shall have been given to the licensee to eliminate or correct any condition which may exist there in violation of such ordinances.
- (f) Violating the provisions of this Chapter, or State laws, or rules adopted hereunder. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.380 SAME – EFFECTIVE DATE.

In the event of suspension of a license, the period of suspension shall not exceed sixty (60) days as determined by the Mayor and City Council. Revocation or suspension of an occupational license as herein determined shall become effective on the fifteenth day following the decision to suspend or revoke. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

Section 3.385 SAME – REISSUANCE.

Whenever a license issued under the provisions of this Code shall be revoked, the licensee shall not thereafter be granted a license under the provisions of this Code for a period of one year from the date of the revocation of such license. (*Ord. No. 83, 6-6-61; Ord. No. 820, 11-3-92*)

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