

562.14 Regulating the time for sale of alcoholic and intoxicating beverages; prohibiting use of licensed premises.—

(1) Except as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day. This section shall not apply to railroads selling only to passengers for consumption on railroad cars.

(2) Except as otherwise provided by county or municipal ordinance, no vendor issued an alcoholic beverage license to sell alcoholic beverages for consumption on the vendor's licensed premises and whose principal business is the sale of alcoholic beverages, shall allow the licensed premises, as defined in s. 561.01(11), to be rented, leased, or otherwise used during the hours in which the sale of alcoholic beverages is prohibited. However, this prohibition shall not apply to the rental, lease, or other use of the licensed premises on Sundays after 8 a.m. Further, neither this subsection, nor any local ordinance adopted pursuant to this subsection, shall be construed to apply to a theme park complex as defined in s. 565.02(6) or an entertainment/resort complex as defined in s. 561.01(18).

(3) The division shall not be responsible for the enforcement of the hours of sale established by county or municipal ordinance.

(4) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 11, ch. 16774, 1935; CGL 1936 Supp. 4151(237); s. 1, ch. 20830, 1941; ss. 1-4, ch. 21944, 1943; s. 1, ch. 22605, 1945; s. 16, ch. 23746, 1947; s. 1, ch. 57-327; ss. 16, 35, ch. 69-106; s. 566, ch. 71-136; s. 2, ch. 72-230; s. 21, ch. 79-11; s. 3, ch. 97-165.

nuisance based upon the above criteria, the more likely the variance to be granted.

(3) Appeals from the determination of the City Manager or his/her designee, as to the denial of a variance for consumption of alcoholic beverages during special events within the city shall be made to the City Commission. These appeals shall have priority and shall be heard at the next regular meeting of the City Commission.

(4) The hearing on such appeals shall be de novo. The City Commission shall hear evidence as to the manner by which the City Manager or his/her designee evaluated the criteria set out in divisions (B)(1) and (2) above. The City Commission shall sustain or reverse the decision of the City Manager or his/her designee in accordance with the City Commission's judgment as to whether the applicant meets the standards set out in divisions (B)(1) and (2) above. The City Commission shall make a final decision in the matter and the City Manager or his/her designee shall give written notice thereof to the applicant. ('72 Code, § 3-10) (Ord. O-79-30, passed 7-2-79; Am. Ord. O-93-32, passed 7-21-93; Am. Ord. O-98-08, passed 5-6-98; Am. Ord. O-2010-16, passed 6-2-10) Penalty, see § 113.99

HOURS OF SALE

§ 113.25 HOURS OF SALE, GENERALLY.

(A) No person or vendor, except those determined by the City Commission to comply with the requirements for an extended hours license pursuant to § 113.26, shall sell or offer for sale or deliver upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content, on any day of the week between the hours of 2:00 a.m. and 7:00 a.m. No person or vendor, except those determined by the City Commission to comply with the requirements for an extended hours license pursuant to § 113.26, shall permit to be consumed upon the premises of such person or vendor, any liquor, beer or wine, regardless of the alcoholic content, on any day of the week between the hours of 2:30 a.m. and 7:00 a.m. Notwithstanding the foregoing, no person or vendor shall be prohibited from selling or offering for sale or delivering any liquor, beer or wine, regardless of alcoholic content, on New Year's Day between the hours of 2:00 a.m. and 4:00 a.m., and no person or vendor shall be prohibited from permitting to be consumed upon the premises of such person or vendor, any liquor, beer or wine, regardless of the alcoholic content, on

New Year's Day between the hours of 2:30 a.m. and 4:00 a.m., except insofar as such privilege may be suspended, terminated or conditioned pursuant to this section. 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 is hereby declared to be and is a privilege subject to suspension, termination, and the imposition of conditions as provided below, and no person may reasonably rely on a continuation of that privilege.

(1) No person, vendor or distributor or any place of business licensed under the provisions of this chapter or by this State, or any employee thereof, shall permit any person who is not a licensed vendor or employee thereof to remain on the licensed premises beyond the legally authorized closing hour. However, if said premises are divided so that the portion of said premises where alcoholic beverages are kept, stored or dispensed is segregated by partition and locked doors after the legal closing hour, such prohibition shall not apply.

(2) No person or vendor shall use a disc jockey to provide entertainment between 12:00 midnight and 2:00 a.m.

(3) If at any time, the Police Chief or his/her designee determines that any person or vendor is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in this section or § 113.26(B), the Police Chief or his/her designee may issue a notice of suspension or termination of the privilege of selling, offering for sale, delivering or permitting to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content, or a notice of imposition of additional conditions and/or restrictions upon the person or vendor ("the Notice"). In determining what action to take, the Police Chief or his/her designee may consider any prior sanctions imposed against the person or vendor pursuant to this section. Said notice shall be served upon the person or vendor by:

- (a) Personal service upon the person or vendor;
- (b) Certified mail delivered to the person or vendor; or
- (c) Posting of the notice in a conspicuous place on the property on which the person or vendor sells, offers for sale, delivers or permits to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of alcoholic content.

The notice shall afford the person or vendor with reasonable notice of the facts or conduct which warrant the intended action, and shall advise the person or vendor of his/her right to a hearing under subsection (4) and, if applicable, subsection (5) below.

(4) The person or vendor may, within five business days of being served with the notice, make a written request for a hearing before the City Commission. Failure to timely request a hearing shall result in the imposition of the suspension, the termination, or the imposition of additional conditions and/or restrictions contained in the notice without further action by the city. Except as provided in subsection (5) below, if a hearing is requested, the notice of suspension, of termination, or the imposition of additional conditions and/or restrictions will not be enforced until the City Commission decision. A hearing shall be scheduled upon payment of the applicable fee as established by resolution of the City Commission. If a hearing is requested by the person or vendor, notice of the City Commission agenda item shall be publicly advertised in a newspaper of local circulation, and written notice of the date, time and place of the hearing will be sent to the person or vendor and to the owners of all properties located within 300 feet of the establishment at least 14 days in advance of the hearing date. At the hearing, the person or vendor and all other individuals wishing to speak will be afforded a reasonable opportunity to do so. The City Commission will consider the matter de novo, and will determine whether the person or vendor operated in a manner harmful to the public health, safety or welfare, based upon the criteria specified in this section and in § 113.26(B). If the City Commission so finds, it may suspend, terminate, or otherwise impose additional conditions and/or restrictions upon the person or vendor.

(5) If the Police Chief or his/her designee finds that immediate serious danger to the public health, safety or welfare requires emergency suspension, termination or the imposition of additional conditions or restrictions upon the person or vendor, he/she may summarily order said suspension or termination, or may summarily impose additional conditions or restrictions. The Police Chief or his/her designee will take only that action necessary to protect the public interest. The Police Chief or his/her designee will provide the person or vendor with all information required by subsection (3) above, and will additionally disclose the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and his/her reasons for concluding that the action taken is necessary to protect the public interest. The notice shall be served upon the person or vendor as required in

subsection (3) above. The notice shall advise the person or vendor that he/she may request a hearing before the City Commission as provided in subsection (4) above. The notice shall also advise the person or vendor that he/she may request a hearing before the City Manager or his/her designee challenging the need for summary action (the "Emergency Hearing") by making a written request within five business days of being served with the notice. If the person or vendor requests an emergency hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the person or vendor and the City Manager or his/her designee. At the emergency hearing, the person or vendor will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that an immediate serious danger exists, the summary action of the Police Chief or his/her designee will continue in effect until the City Commission decision described in subsection (4) above is rendered. If the City Manager or his/her designee determines that an immediate serious danger does not exist, the summary action of the Police Chief or his/her designee will not be enforced until the City Commission decision described in subsection (4) above is rendered.

(6) If so suspended, the privilege to continue the on-premise sale of alcoholic beverages between the hours of 12:00 a.m. and 2:00 a.m. and the on-premise consumption of alcoholic beverages between the hours of 12:00 a.m. and 2:30 a.m. shall not be reinstated until any applicable condition of the suspension is met and the payment of a reinstatement fee in an amount established by resolution of the City Commission is made.

(7) Any person, vendor or establishment whose privilege of on-premise sale of alcoholic beverages between the hours of 12:00 a.m. and 2:00 a.m. and on-premise consumption of alcoholic beverages between the hours of 12:00 a.m. and 2:30 a.m. is revoked shall not be eligible to request reconsideration of said privilege for six months from the effective date of the revocation.

(8) Should the privilege be terminated or conditioned, the person or vendor may seek review of such action before the City Commission after six months. Any such request for review shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission. The City Commission may then modify or refuse to modify its action. Only one such review shall be given within a 12-month period.

(B) No person, vendor or distributor shall sell, offer for sale or deliver any liquor, beer or wine, regardless of the

alcoholic content, by package, bottle or container, for the purpose of consumption off the premises, on any day of the week between the hours of 12:00 midnight and 7:00 a.m. ('72 Code, § 3-2(1), (2)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-93-32, passed 7-21-93; Am. Ord. O-2005-14, passed 7-13-05; Am. Ord. O-2006-31, passed 9-6-06; Am. Ord. O-2007-24, passed 7-18-07) Penalty, see § 113.99

§ 113.26 EXTENDED HOURS LICENSE.

(A) (1) *Applicability and eligibility.* Except for those Live Entertainment Establishments as defined herein and located within the boundaries of the Downtown Music District as described in Exhibit "A" of Resolution No. R-95-272A, and person or vendor operating as a restaurant bar or as a hotel or motel bar, as defined herein, and duly licensed by the State of Florida to sell and dispense alcoholic beverages for consumption on premises and by the city pursuant to Chapter 110 of the Code of Ordinances relating to local business tax receipts may apply for an extended hours license provided that such person or vendor has been operating as a restaurant bar or hotel or motel bar at the location that is the subject of the application for not less than six months prior to the date of application. Such license application shall be processed using the procedures and the criteria listed in this subsection and subsection (B) below. The fee for the issuance of said license shall be set by resolution of the City Commission. An extended hours license shall permit and extend the hours in which such licensee may remain open until 4:00 a.m. on any day; however, all such extended hours licenses are hereby declared to be and are regulatory in nature. An extended hours license may be valid for up to one year and shall expire on September 30 at midnight of each licensing year at which time all extended hours operations shall cease unless a new license is issued prior to the expiration of the previous license. Any person or vendor who wishes to remain open until 4:00 a.m. to sell and dispense alcoholic beverages for consumption on premises must maintain and display a valid extended hours license.

(2) *Live Entertainment Establishments within Downtown Music District.* Any person or vendor operating a Live Entertainment Establishment within the Downtown Music District, as defined herein, and duly licensed by the State of Florida to sell and dispense alcoholic beverages for consumption on premises, has a local business tax receipt pursuant to Chapter 110 of the Code of Ordinances and a Certificate of Use, may apply for a Live Music Extended Hours License to the Department of Planning and

Development Services. Such license application shall be processed using the procedures and the criteria listed in below. The fee for the issuance of the said license shall be set by resolution of the City Commission. A Live Music Extended Hours License shall permit and extend the hours in which the licensee may remain open until 4:00 a.m. on any day; however, all such Live Music Extended Hours Licenses are hereby declared to be and are regulatory in nature. A Live Music Extended Hours License may be valid for one (1) year and shall expire on September 30th at midnight of each license year at which time all extended operations shall cease until a new license is issued prior to the expiration of the previous license. Any Live Entertainment Establishment that wishes to remain open until 4:00 a.m. to sell and dispense alcoholic beverages for consumption on premises must maintain and display a valid Live Music Extended Hours License.

(a) *Application.* An application for a Live Music Extended Hours License shall be submitted, on a form furnished by the Department of Planning and Development Services, along with a nonrefundable application fee in an amount established by resolution of the City Commission. The application shall include the following:

1. A plan and/or sketch indicating the location of the Live Entertainment Establishment and the floor plan showing a floor area of not less than 1,000 square feet. The floor plan shall be an accurate representation of the plan approved by the City's Building and Fire Departments as part of the formal building process. Any changes to the floor plan since the original city approval shall be identified and include a notation identifying the date the modification was approved by the city, if such approval was required. The floor plan shall show all customer seating areas, performing stages or platforms, back-of-house areas, restroom facilities. The floor plan shall state the legal occupant load and all exiting systems of the premises shall be clearly shown. No floor plan change, occupant load change, or other change of use can be approved as part of the application process for a Live Music Extended Hours License.

2. A copy of the Live Entertainment Establishment's local business tax receipt and Certificate of Use.

3. A copy of the Live Entertainment Establishment's State of Florida alcoholic beverage license.

4. A security plan which should include, but is not limited to:

A. The number of security personnel who will be on duty during the extended hours of operation;

B. The minimum level of acceptable training for security personnel;

C. The patron screening procedure, if any, prior to admission to the Live Entertainment Establishment;

D. Identification of patron access points into the Live Entertainment Establishment;

E. Removal of disorderly or intoxicated patrons from premises; and

F. Dispersal of patrons from the Live Entertainment Establishment, on site parking area and/or public rights-of-way (e.g. sidewalk or street) within fifty feet of any entrance to the Live Entertainment Establishment.

5. A summary of the facts concerning the live entertainment including the proposed days and hours of operation, description of proposed entertainment, number of entertainers, and a copy of the food menu.

(b) *Review criteria.* An application for a Live Music Extended Hours License shall be submitted for review and comment to all appropriate departments and offices, including, but not limited to, the Executive Director of the CRA, the Fire Department, the Police Department and Building. Review of the application shall be based upon the following criteria:

1. Conformance with the use requirements as defined herein.

2. Ingress and egress to the Live Entertainment Establishment, with particular reference to safety and convenience, access in case of fire or catastrophe, and conform to all state and local regulations, including but not limited to applicable fire safety codes, for which the premises will be inspected.

3. Compliance by the Live Entertainment Establishment with the requirements of Florida Statutes, the Zoning and Land Development Regulations and the Code of Ordinances.

4. The adverse effects, if any, that the extended hours of operation or other applicable issues

will have on neighboring properties, especially with respect to patron activities.

5. Establishment shall be wholly enclosed, soundproofed, air-conditioned, with all windows, door and other openings kept closed except for normal ingress and egress, such that noise and music emanating therefrom will not disturb surrounding properties between 10 p.m. and 4 a.m.

(c) *Approval.* An application which conforms to the review criteria may be approved for a Live Music Extended Hours License subject to the provisions of § 113.26(A)(2).

(d) *Denial.* An application which does not conform to the review criteria set forth herein shall be denied.

(e) Upon approval of an application for a Live Music Extended Hours License, the local business tax division of the Department of Financial Services and Information Technology, may issue the applicable Live Music Extended Hours License upon payment of the applicable fee as established by resolution of the City Commission. The fee for the issuance of a Live Music Extended Hours License to a Live Entertainment Establishment which first received approval of its application after March 31st and before October 1st shall be 50% of the Live Music Extended Hours License fee established by resolution of the City Commission.

(f) *Appeal of decision.* The Live Entertainment Establishment for which a Live Music Extended Hours License is requested may appeal to the City Commission, consistent with these provisions, any decision rendered by the City Manager of his/her designee denying such Live Music Extended Hours Permit License. Any such appeal shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission and required submittal documents. Said appeal must be made in writing to the Department of Planning and Development Services within 21 days of the date of the notice of denial. Said appeal shall be noticed as required in Section 5.7 of the Zoning and Land Development Regulations.

(g) *Operation of Live Entertainment Establishment.*

1. Each Live Entertainment Establishment to which a Live Music Extended Hours License is granted shall open no later than 5 p.m. may remain open until 4 a.m. and is permitted to serve alcoholic beverages.

2. No Live Entertainment Establishment to which a Live Music Extended Hours License is granted shall permit any person under the age of 21 to enter or be present in such establishment between the hours of 2:00 a.m. and 4:00 a.m., unless such person is accompanied by a parent or legal guardian.

3. Each Live Entertainment Establishment to which a Live Music Extended Hours License is granted must provide, at least 3 nights per week, floorshows or other forms of entertainment consisting of at least one performer playing musical instrumentation, amplified or non-amplified, and the performances shall be held for a duration of no less than 3 hours during the Live Entertainment Establishment's hours of operation.

4. All live entertainment shall be provided indoors with all doors and windows remaining closed during performances, with the exception of patron and staff ingress and egress, during the live entertainment performances.

(h) *Revocation of a Live Music Extended Hours License.* If the Police Chief or his/her designee determines that any licensee has violated the provisions herein or that such Live Entertainment Establishment is operating in a manner harmful to the public health, safety or welfare based upon the provisions set forth in § 113.26(A)(2), he/she may issue a notice of revocation upon the licensee. Said notice shall be served upon the licensee by: (1) personal service upon the permittee; (2) certified mail delivered to the permittee; or (3) posting of the notice in a conspicuous place on the property subject to the Live Music Extended Hours License.

The notice shall afford the licensee with reasonable notice of the facts or conduct which warrants the revocation, and shall advise the licensee of his/her rights to a hearing under § 113.25(D)(2), and, if applicable, § 113.26(D)(3).

(i) *Transferability.* A Live Music Extended Hours License shall not be transferable.

(B) *Application and review procedures.*

(1) *Application.* An application for an extended hours license shall be submitted, on a form furnished by the city, to the Department of Planning and Development Services, along with a nonrefundable application fee in an amount established by resolution of the City Commission.

(2) *Notice and response.* All owners of property located within 300 feet of the parcel for which a new

extended hours license is requested shall be notified of the application and of their right to protest such request in writing within 21 calendar days of the mailing of such notice. The written protest shall state the reasons for the protest.

(3) *Review criteria.* An application for an extended hours license shall be submitted for review, investigation and comment to all appropriate city departments and offices, including, but not limited to, the Office of Code Enforcement, the Fire Department, the Police Department and the Department of Planning and Development Services, for the following criteria:

(a) The amount and degree of law enforcement activities generated by the operation of any establishment 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.

(b) The adverse effects, if any, that the extended hours of operation or other applicable issues will have on neighboring properties, especially with respect to patron activities and effects of noise, parking, and exterior lighting on nearby residential properties and the city's economic redevelopment efforts.

(c) Compliance by the business with the requirements of Florida Statutes, the Zoning and Land Development Regulations and the Code of Ordinances of the city.

(d) Conformance of the premises to applicable fire safety codes, for which the premises will be inspected.

(e) Establishment wholly enclosed, soundproofed, and air-conditioned, with all windows, doors and other openings kept closed, except for normal ingress and egress, such that noise and music emanating therefrom will not disturb surrounding properties between 2:00 a.m. and 4:00 a.m. officers thereof.

(f) Criminal background check of all applicants and/or corporate officers thereof.

(g) Conformance to the use requirements as defined herein.

(4) *Determination.* The City Manager or his/her designee shall make the determination, based on the criteria in this section, to approve, approve with conditions, or deny the request for an extended hours license. Additionally, in

the event a written protest is received within 21 days of the date of mailing notice, as described in § 113.26(B)(2), from an owner of property located within 300 feet of the parcel for which an extended hours license is requested, the City Manager or his/her designee shall attempt to mediate the issues raised by the protest. If reasonable efforts to mediate such issues are unsuccessful, the City Manager or his/her designee shall approve, approve with conditions, or deny the extended hours license; provided that the applicant shall have the right to appeal any approval with conditions or denial to the City Commission pursuant to § 113.26(B)(5):

(a) *Approval.* An application which conforms to the review criteria may be approved for an extended hours license subject to the provisions of this section.

(b) *Conditional approval.* The City Manager or his/her designee may require, as a condition of the privilege of extending hours of operation, compliance with any reasonable conditions deemed to be necessary to mitigate or eliminate the potential adverse effects of such extended hours. These conditions may include, without being limited to, provision by the owner or operator, at his/her expense, of additional off-street parking, security personnel and screening and buffering from nearby properties. The owner shall record in the Public Records of Broward County, Florida, a covenant running with the land which expressly sets forth any and all conditions required.

(c) *Denial.* An application which does not conform to the review criteria shall be denied pursuant to this section.

(d) Upon approval or conditional approval of an application for an extended hours license, the local business tax division of the Financial Services Department, may issue the applicable license upon payment of the applicable fee as established by resolution of the City Commission. The fee for the issuance of an extended hours license to a business which first receives approval of its license application after March 31 and before October 1 shall be 50% of the license fee as established by resolution of the City Commission.

(5) *Appeal of decision.* The owner of a business for which an extended hours license is requested may appeal to the City Commission, consistent with these provisions, any decision rendered by the City Manager or his/her designee to approve with conditions or deny such license. Any such appeal shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Commission and required submittal documents.

Said appeal must be made in writing to the Department of Planning and Development Services within 21 days of the date of notice of denial. Said appeal shall be noticed as required in Section 5.7 of the Zoning and Land Development Regulations.

(C) *Operation of establishment.*

(1) Each establishment to which an extended hours license is granted shall be open for business not less than five days per week between 5:00 p.m. and 10:00 p.m.

(2) No establishment to which an extended hours license is granted shall use a disc jockey to provide entertainment between 2:00 a.m. and 4:00 a.m.

(3) Each restaurant bar to which an extended hours license is granted shall be open for business as a restaurant bar not later than 5:00 p.m. the day immediately preceding any day on which it will serve alcoholic beverages between 2:00 a.m. and 4:00 a.m.

(4) No establishment to which an extended hours license is granted shall permit any person under the age of 21 to enter or be present in such establishment between the hours of 2:00 a.m. and 4:00 a.m., unless such person is accompanied at all times by a parent or legal guardian.

(D) *Revocation, suspension, or imposition of additional conditions and/or restrictions.*

(1) If the Police Chief or his/her designee determines that any licensee has either violated a condition of the extended hour license, or that the licensee is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in subsection (B) or subsection (C), he/she may issue a notice of suspension, of revocation, or a notice of imposition of additional conditions and/or restrictions upon the license or licensee ("the Notice"). In determining what action to take, the Police Chief or his/her designee may consider any prior sanctions imposed against the licensee pursuant to this section. Said notice shall be served upon the licensee by:

- (a) Personal service upon the licensee;
- (b) Certified mail delivered to the licensee; or
- (c) Posting of the notice in a conspicuous place on the property subject to the license.

The notice shall afford the licensee with reasonable notice of the facts or conduct which warrant the intended action, and

shall advise the licensee of his/her right to a hearing under subsection (2) and, if applicable, subsection (3) below.

(2) The licensee may, within five business days of being served with the notice, make a written request for a hearing before the City Commission. Failure to timely request a hearing shall result in the imposition of the suspension, the revocation, or the imposition of additional conditions and/or restrictions contained in the notice without further action of the city. Except as provided in subsection (3) below, if a hearing is requested, the notice of suspension, of revocation or of the imposition of additional conditions and/or restrictions will not be enforced until the City Commission decision. A hearing shall be scheduled upon payment of the applicable fee as established by resolution of the City Commission. If a hearing is requested by the licensee, notice of the City Commission agenda item shall be publicly advertised in a newspaper of local circulation, and written notice of the date, time and place of the hearing will be sent to the licensee and to the owners of all properties located within 300 feet of the establishment at least 14 days in advance of the hearing date. At the hearing, the licensee and all other individuals wishing to speak will be afforded a reasonable opportunity to do so. The City Commission will consider the matter de novo, and will determine whether the licensee violated a condition of the license or whether the licensee is operating in a manner harmful to the public health, safety or welfare based upon the criteria specified in subsection (B), as appropriate. If the City Commission so finds, it may suspend, revoke, or otherwise impose additional conditions and/or restrictions upon the license or licensee.

(3) If the Police Chief or his/her designee finds that immediate serious danger to the public health, safety or welfare requires emergency suspension, revocation or the imposition of additional conditions or restrictions upon the license, he/she may summarily order said suspension or revocation, or may summarily impose additional conditions or restrictions. The Police Chief or his/her designee will take only that action necessary to protect the public interest. The Police Chief or his/her designee will provide the licensee with all the information required by subsection (1) above, and will additionally disclose the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and his/her reasons for concluding that the action taken is necessary to protect the public interest. The notice shall be served upon the licensee as required in subsection (1) above. The notice shall advise the licensee that he/she may request a hearing before the City Commission as provided in subsection (2) above. The notice shall also advise the licensee that he/she may request a hearing before the City Manager or his/her designee

challenging the need for summary action, (the "Emergency Hearing") by making a written request within five business days of being served with the notice. If the licensee requests an emergency hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the licensee and the City Manager or his/her designee. At the emergency hearing, the licensee will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that an immediate serious danger exists, the summary action of the Police Chief or his/her designee will continue in effect until the City Commission decision described in subsection (2) above is rendered. If the City Manager or his/her designee determines that an immediate serious danger does not exist, the summary action of the Police Chief or his/her designee will not be enforced until the City Commission decision described in subsection (2) above is rendered.

(4) No suspended extended hours license shall be reinstated until any applicable condition of the license or condition of the suspension is met and the payment of a reinstatement fee in an amount established by resolution of the City Commission is made.

(E) Any person, vendor or establishment whose application for an extended hours license was denied or whose extended hours license was revoked shall not be eligible to apply for said license for 6 months from the effective date of the revocation or denial.

(F) *Transferability.* An extended hours license shall not be transferable.

(G) *Legislative review.* This section shall stand repealed on October 1, 2014, unless reviewed and saved from repeal through reenactment by the City Commission.

(H) *Temporary extension of hours waiver.*

(1) There is hereby granted a waiver temporarily permitting establishments duly licensed by the State of Florida for on-premise sale and consumption of alcohol, the privilege to extend such operations until 4:00 a.m. for the period of time ending February 10, 2010.

(2) All such permission extended to those establishments duly licensed by the State of Florida for on-premise sale and consumption of alcohol by way of the temporary extended hours waiver shall constitute a privilege subject to revocation in the manner provided in division (5) below.

(3) No establishment that takes advantage of the temporary extended hours waiver shall use a disc jockey to provide entertainment between 2:00 a.m. and 4:00 a.m.

(4) Each establishment with an active extended hours license shall receive a discount of \$11 towards its license for the following licensing year for each day the temporary extended hours waiver is in effect.

(5) If at any time, the Police Chief or his/her designee determines that any person or vendor subject to the temporary extended hours waiver is operating in a manner harmful to the public health, safety or welfare, based upon the provisions specified in this section, the Police Chief or his/her designee may issue a notice summarily terminating the privilege extended by the city for selling, offering for sale, delivering or permitting to be consumed upon the premises of such person or vendor any liquor, beer or wine, regardless of the alcoholic content during said extension. The notice shall be served upon the person or vendor by:

(a) Personal service upon the person or vendor; and/or

(b) Posting of the notice in a conspicuous place on the property on which the person or vendor sells, offers for sale, delivers or permits to be consumed upon the premises of such person or vendor any liquor, beer or wine.

The notice shall advise the person or vendor that he/she may request a hearing before the City Manager or his/her designee challenging the action of the Police Chief or his/her designee by making a written request within five business days of being served with the notice. If the person or vendor requests a hearing in a timely hearing, the hearing will be conducted within two business days of the city's receipt of the request, unless extended by mutual agreement of the person or vendor and the City Manager or his/her designee. At the hearing, the person or vendor will be afforded a reasonable opportunity to speak. If the City Manager or his/her designee determines that the action of the Police Chief or his/her designee is justified, such action will continue in effect until the end of the temporary extended hours waiver. If the City Manager or his/her designee determines that the action of the Police Chief or his/her designee is not justified, the City Manager or his/her designee will reverse the action of the Police Chief or his/her designee, which will have no further force and effect.

('72 Code, § 3-2(3)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-97-08, passed 4-23-97; Am. Ord. O-2001-19,

passed 5-16-01; Am. Ord. O-2005-14, passed 7-13-05; Am. Ord. O-2006-31, passed 9-6-06; Am. Ord. O-2007-07, passed 4-18-07; Am. Ord. O-2007-24, passed 7-18-07; Am. Ord. O-2009-07, passed 5-6-09; Am. Ord. O-2010-03, passed 2-3-10; Am. Ord. O-2011-15, passed 5-4-11; Am. Ord. O-2012-09, passed 5-2-12) Penalty, see § 113.99

§ 113.27 (RESERVED).

('72 Code, § 3-2(4)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-92-13, passed 3-4-92; Am. Ord. O-97-08, passed 4-23-97; Repealed by Ord. O-2005-14, passed 7-13-05) Penalty, see § 113.99

§ 113.28 (RESERVED).

('72 Code, § 3-2(5)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-97-08, passed 4-23-97; Repealed by Ord. O-2004-14, passed 7-13-04) Penalty, see § 113.99

§ 113.99 PENALTY.

(A) Any person who violates the provisions of this chapter for which no penalty is otherwise provided, shall, after conviction by a court of competent jurisdiction, be liable for a fine not to exceed \$250 or imprisonment for a term not to exceed 30 days or both in the discretion of the court. Each day of violation of any term or provision of this chapter shall constitute a separate and distinct offense. ('72 Code, § 3-11) (Ord. O-79-30, passed 7-2-79; Am. Ord. O-92-13, passed 3-4-92)

(B) Any person who shall violate any term, condition or provision of §§ 113.25 through 113.28, upon conviction of such violation before a court of competent jurisdiction, shall be subject to a fine not exceeding \$500 or imprisonment not exceeding 60 days or both at the discretion of the court. Each day of violation of any term, provision or condition of this chapter shall constitute a separate and distinct offense. ('72 Code, § 3-2(6)) (Ord. O-79-24, passed 6-6-79; Am. Ord. O-85-63, passed 12-12-85; Am. Ord. O-87-63, passed 10-7-87; Am. Ord. O-88-56, passed 9-22-88; Am. Ord. O-95-20, passed 4-5-95)