

ORDINANCE 14-29

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN PERTAINING TO ALCOHOLIC BEVERAGES, BY AMENDING SEC. 6-31 *DISTANCE FROM SCHOOLS AND CHURCHES* TO REPLACE THE WORD "INTOXICATING" WITH "ALCOHOLIC" AND DELETE THE WORDS "BEER, WINE AND ALCOHOL", TO REPLACE "SECTION 134-2" WITH "APPENDIX A", AND TO ESTABLISH LOCATION PARAMETERS OF RESTAURANT ESTABLISHMENTS IN THE DOWNTOWN CORE "DC" ZONING DISTRICT THAT ARE PERMITTED TO HAVE ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES, IN PROXIMITY TO CHURCH AND SCHOOL PROPERTIES AND TO OTHER BAR ESTABLISHMENTS; BY AMENDING SEC. 6-32 *HOURS OF SALE* TO REMOVE REFERENCE TO ALCOHOLIC BEVERAGES CONTAINING MORE THAN ONE PERCENT OF ALCOHOL BY WEIGHT AND ADD AS DEFINED BY THE STATE BEVERAGE LAW; BY AMENDING SEC. 6-33, SUBSECTION (a) TO REPLACE "GRANT FIELD" WITH "CITY FACILITIES"; BY AMENDING SUBSECTION (d)(1) TO PROVIDE THE MEANING OF "ALCOHOLIC BEVERAGE" AS DEFINED BY THE STATE BEVERAGE LAW; BY AMENDING SEC. 6-51, SUBSECTION (b) *DEFINITIONS*, TO PROVIDE THE MEANING OF "ALCOHOLIC BEVERAGE" AS DEFINED BY THE STATE BEVERAGE LAW, AND BY ADDING THE TERMS "BAR" AND "TAVERN" AND THE DEFINITIONS THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City Commission seeks to amend Chapter 6 to bring it into compliance with state and national standards along with flexibility to meet the city needs; and

WHEREAS, the Ordinance Review Committee did review and recommend to the City Commission the amendments proposed; now, therefore

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1: That Chapter 6 of the Code of Ordinances of the City of Dunedin is amended in its entirety as follows:

CHAPTER 6 ALCOHOLIC BEVERAGES

DIVISION 1. GENERALLY.

Sec. 6-31. - Distance from schools and churches.

It shall be unlawful to sell or offer for sale alcoholic beverages as defined by the State Beverage Law, or to locate or maintain any store, club, establishment or place of business dealing in alcoholic beverages, within 300 feet, in any direction, of a public school or church, which distance shall be measured in a straight line from the entrance or exit of the school or church nearest to the entrance of the place dealing in the alcoholic beverages, except restaurants as defined in Appendix A of this Code may be located not less than 175 feet, in any direction, of a public school or church, measured as set forth in this section. If a church elects to establish its location within a commercial zone district that permits establishments that offer for sale alcoholic beverages, then the above-noted separation requirements shall not apply.

In the Downtown Core "DC" Zoning District, restaurant establishments that are permitted to have on-site consumption of alcoholic beverages shall not locate closer than 50 feet to the property of a church or school. Bar establishments that are permitted to have on-site consumption of alcoholic beverages shall not locate closer than 300 feet to the property of a church or school. Furthermore, bar establishments shall not locate any closer than 300 feet to another bar establishment. The method of measuring such distances shall be a straight line from the nearest point of the property of one such establishment to the nearest point of the property of the other establishment, or of the church or school.

Sec. 6-32. - Hours of sale.

The sale and distribution of alcoholic beverages, as defined by the State Beverage Law, within the city on weekdays, including Saturdays, between the hours of 3:00 a.m. and 8:00 a.m. and on Sundays between the hours of 3:00 a.m. and 11:00 a.m. is hereby prohibited.

Sec. 6-33. - Consumption of alcoholic beverages at city parks and recreation facilities and other city lands; permit; special events; licensed properties; private properties; definitions.

- (a) Consumption of an alcoholic beverage ("consumption") or possession of an alcoholic beverage in an open container ("possession") is unlawful within or upon any park, parking area, street, street right-of-way, recreation facilities, and lands dedicated to or owned by or otherwise under the control and authority of a government or public agency ("public property") unless and until a letter of permission for such consumption or possession shall have been obtained from the city manager or designee or from an authorized representative of the government or public agency using or controlling such property. Consumption or possession of alcoholic beverages on board vessels in the Dunedin Marina and the

sale, possession of open containers and consumption of alcoholic beverages at City facilities purchased from authorized concessionaires at City facilities shall be an exception to this section. The city manager or designee may give permission for the possession of open containers or the consumption of alcoholic beverages at city parks and other city property or recreation facilities or city streets or rights-of-way for special events and may condition such permission as the city manager deems appropriate to protect the public interest.

- (b) During a special event on public property when consumption or possession of alcoholic beverages has been permitted by the city, it shall be unlawful for any person to consume any alcoholic beverage, or to possession alcoholic beverage in an open container on public property beyond the boundaries that are subject to the special use permit. The city may limit or preclude coolers or other containers being brought into special events on public property.
- (c) If the city has leased or licensed city owned or controlled public property to another person or entity, that person or entity may give permission for the consumption of alcoholic beverages or possession of an alcoholic beverage in an open container on that property unless the city manager has denied permission for such consumption or possession or specifically limited the same. If the lease or license or other type of permission for the use of public property is for a period of 72 hours or less and the lease or license or permission is silent on the possession or consumption of alcoholic beverages, no permission for possession or consumption shall be implied.
- (d) It is unlawful for any person to consume an alcoholic beverage, or to possess an alcoholic beverage in an open container within or upon a parking area open to public use or within or upon private property without the consent of the owner, tenant or other person lawfully in possession thereof.
 - (1) The term "alcoholic beverage" is defined by the State Beverage Law.
 - (2) The term "special event" shall mean and include all gatherings, entertainments or other activities that are approved by and permitted by the city to occur on public property, streets or rights-of-way and which may also include private properties within the city and which have been granted a special event permit by the city or have received written authorization for such event by the city manager.
- (e) All provisions of this section may be enforced by all authorized law enforcement officers. Except [as] otherwise provided by law or

ordinance, a person convicted of a violation of this section shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment.

Secs. 6-34—6-50. - Reserved.

DIVISION 2 - CONDUCT

Sec. 6-51. - Prohibition of certain activities in establishments dealing in alcoholic beverages.

(A) Prohibited acts enumerated.

- (1) It shall be unlawful for any person, male or female, to engage in nude or seminude behavior, activity or entertainment in any alcoholic beverage establishment.
- (2) It shall be unlawful for any female person, while on the premises of an alcoholic beverage establishment, to expose to public view that area of the human female breast at or below the areola thereof or to employ any device or covering which gives the appearance of or simulate such areas of the female breast as described in this section.
- (3) It shall be unlawful for any person, male or female, to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage in any alcoholic beverage establishment.
- (4) It shall be unlawful for any person, including any entertainers, performers or employees, male or female, while on the premises of an alcoholic beverage establishment, to dance in such a manner as to simulate sexual activity with any patron, spectator, employee or other person not employed therein.
- (5) It shall be unlawful for any entertainer, performer or employee, while on the premises of an alcoholic beverage establishment, to sit upon or straddle the leg, legs, lap or body of any patron, spectator or other person therein or to lap dance or to engage in or simulate sexual activity while touching or being touched by the patron, spectator or other person.
- (6) It shall be unlawful for any person managing, maintaining or operating an alcoholic beverage establishment to suffer or permit any violations of subsections (a)(1)—(a)(5) of this section or to own

or lease such establishments with knowledge that such violations are occurring.

- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage, as defined by the State Beverage Law, means distilled spirits and all beverages containing one-half of one percent or more alcohol by volume. The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though the remainder ingredients were distilled water.

Alcohol beverage establishment means any establishment at which alcoholic beverages are sold, dispensed, consumed, possessed or offered for sale or consumption on the premises or which permits the consumption of alcoholic beverages on the premises. The term "alcohol beverage establishment" shall not include private residences.

Bar: See "Tavern."

Buttocks means the area of the rear of the body which lies between two imaginary lines running parallel to the ground when a person is standing, the first or top such line drawn at the top of the cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom line drawn at the lowest visible point of this cleavage or the lowest point of the curvature of the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg.

Nudity means the exposure of the male or female body where the genital area, pubic area or buttocks are not covered or are covered with less than opaque material or are covered with material that permits the exposure of those areas. In the case of the female body, it shall also mean the exposure of the female breast or any portion thereof at or below the areola with less than opaque covering.

Seminudity means the exposure of the female body where one portion (breast, genital, pubic or buttock) may be covered while the other portions are covered with less than opaque material. It shall encompass topless activities where the genital, pubic and/or buttocks areas are covered but the breast areas are not covered by opaque

material. It shall also encompass bottomless activities where the breast areas are covered but the genital, pubic and/or buttocks areas are exposed or covered with less than opaque material.

Tavern: Any use in which the primary purpose is the sale of alcoholic beverages for on-premises consumption, which may or may not include dancing.

- (c) *Severability.* If any provision, subsection, sentence, clause or phrase of this section or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this section or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city commission in adopting this section that no portion of this section or provision or regulation contained in this section shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof; and all provisions of this section are declared to be severable for that purpose.

Section 2: That this Ordinance shall be effective upon passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 4th day of December, 2014.


Julie Ward Bujalski
Mayor

ATTEST:


Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: November 20, 2014

READ SECOND TIME AND ADOPTED: December 4, 2014