

Extended Hours Licensing and Nightclub Ordinance: Frequently Asked Questions

Q. What does this new ordinance affect?

A. The new ordinance (Ordinance 153-09-A in conjunction with Ordinance 153-08-A) incorporates several changes to the City's Code of Ordinances; The Ordinance specifies:

- The hours that businesses are permitted to serve alcoholic beverages for consumption on the premises. The new hours become effective June 1, 2009;
- Establishes a definition of "nightclub";
- Establishes the boundaries of the newly created Western Sunrise Entertainment District (WSED):
the Sawgrass Expressway on the west; Oakland Park Boulevard on the north; Flamingo Road on the east; a southern boundary consisting of Sunrise Boulevard east of NW 136th Ave and 1400 feet south of the southern edge of the right-of-way of Sunrise Boulevards west of NW 136th Avenue (Sec. 16-82 b.);
- Permits those establishments deemed to be nightclubs based on the new classification criteria, to operate by right in the WSED and to operate in the B-3 and B-3A zoning districts of the City after a special exception use staff review and City Commission approval.

Q. What are the new hours that establishments may serve alcoholic beverages?

A. Until 1:00 AM, seven days per week, starting June 1, 2009. This applies to establishments that currently serve alcoholic beverages on premises, regardless of what type of liquor license one holds or what type of establishment one has (bar, restaurant or nightclub). However, establishments that have a maximum capacity set by the City's Building and Fire Official of 50 or fewer persons are not be required to obtain an extended hours license to remain open beyond 1:00 AM.

Q. Is there anything that an establishment may do to be permitted to serve alcohol beyond 1:00 AM once the ordinance goes into effect?

A. The owner or owner's representative of an establishment may apply for an EXTENDED HOURS LICENSE. If approved, the Extended Hours License will allow establishments that are located in the WSED to serve alcohol until 3:00 AM the following morning Sunday through Thursday and until 4:00 AM the following morning on Friday and Saturday. Approval for an Extended Hours License in all other areas of the City allows establishments to serve alcoholic beverages until 2:00 AM the following morning Sunday through Thursday and 3:00 AM the following morning Friday and Saturday.

Q. How do I apply for the Extended Hours License?

A. The first step is to complete the Extended Hours License Application. You may obtain the application at the City's Planning and Development Department or you may download it from www.sunrisefl.gov/Planning_Docs.html.

Q. When does this all go into effect?

A. The rollback of alcoholic beverage service and requirement for an extended hours license goes into effect on June 1, 2009.

Q. How long will it take to go through the approval process for the Extended Hours License?

A. If the application that you submit is completed correctly and all of the supporting documentation is in order, the application should be reviewed by the City's Development Review Committee (DRC) within 30 to 60 days. Based on the consensus of the DRC, the Director of the Planning and Development Department will recommend to the City Commission that the application be approved, approved with conditions, or denied. A public hearing for the application will then be scheduled for a City Commission meeting.

Q. How much will this cost?

A. The application fee is established on a sliding scale based on the gross building size (square footage) of the given establishment (see attached). This fee is separate from any other fees or license costs associated with the cost of doing business, i.e. liquor licenses, occupational licenses, etc. There may also be additional fees to cover the cost of public notification and the cost of applicant's criminal background check(s).

Q. When reviewing an application for an Extended Hours License, what sort of things will be considered?

A. First and foremost, consideration will be given to the amount and degree of law enforcement activities generated by the operation of the establishment. Additionally, all owners, managers or others with a proprietary interest in the business will be subject to a criminal background check. The impact that the business has on the surrounding neighborhood will also be analyzed. This will include things such as noise levels, automobile ingress and egress and parking availability. Other factors that will be considered include:

- a. if the applicant is enrolled in the state of Florida Responsible Vendor Program;
- b. if there are security cameras on the premises;
- c. if the establishment offers free taxi cab rides to intoxicated people;
- d. if the establishment, in an attempt to discourage loitering, participates in the City's "No Trespass" program;
- e. if at least 40% of the gross sales of the establishment are derived from food sales;
- f. the establishment's ability to offer full course meals during all hours of operation;
- g. the amount of contiguous gross floor space dedicated to dining, exclusive of any bar area;
- h. the seating accommodations;
- i. compliance with all Federal, State and local health department regulations pertaining to the storage, preparation and serving of food.

Q. What is the "No Trespass" program? How do I find out more about it?

A. The "No Trespass" program is a free program administered by the City of Sunrise Police Department. Call 954-746-3383 for details.

Q. Is the license perpetual?

A. No, it must be renewed annually.

Q. What happens if, after obtaining my Extended Hours License, I am found to be non-compliant with a condition of approval?

A. In this case, the license holder will appear before the City Commission for a quasi-judicial hearing. The Commission will determine whether the Extended Hours License should be revoked.

Q. What happens if my Extended Hours License is revoked?

A. If your license is revoked, no reapplication shall be considered for your establishment for a period of one year following the date of revocation.

Q. Will my Extended Hours License expire?

A. Yes, the Extended Hours License will expire at the end of one year unless it is renewed.

Q. Is the renewal of the license contingent merely on me coming in and paying an annual renewal fee?

A. No, an application for renewal will be reviewed again by DRC by applying the same criteria that was used to determine if the originally issued license was appropriate. This means that you will want to begin the renewal process 60 days or so prior to the expiration date of the current license. This will provide ample time for the DRC and Director of Planning and Development Department to review the renewal application.

Q. If I have obtained an Extended Hours License for one location and decide to open another establishment at a different location within the City or if I close the licensed location and reopen elsewhere in the City, is my license transferable to the new location?

A. No, an Extended Hours License is not transferable. A new application review will have to be completed for the new or additional location.

Q. How will nightclub owners be impacted?

A. Nightclubs within the WSED are permitted by right. Nightclubs within the B-3 and B-3A districts of the City will be permitted only after special exception use approval by the City Commission. Nightclubs will not be permitted to operate in any other districts of the City unless they were legally in operation prior to the requirement for a special exception use approval by the City.

Q. But what if I'm operating as a nightclub now in a district of the City that isn't within the WSED or a B-3 or B-3A district of the City?

A. If you are operating an establishment that meets the criteria to be classified as a nightclub under the City's new definition AND if you have a special exception use approval for this use, your use **may** be grandfathered and considered to be legal non-conforming. You will need to provide the City staff the specific facts of your use for a determination. If so, you will be permitted to continue to operate as a nightclub even though you are not located within the WSED or a B-3 or B-3A district of the City. If you have any questions about the legal status of your use, please call the Department of Planning and Development at 954-746-3270.

Q. What if I don't have a special exception use approval for my nightclub business?

A. There are situations where nightclub businesses have been operating within the City prior to a City code change on November 23, 1993, that made nightclub uses permissible only after obtaining a special exception use approval. In these limited cases, if the business owner can demonstrate that the business has been operating continuously at this location prior to 1993 and

has maintained all necessary Federal, State and local licenses, these businesses, too, may be grandfathered and considered to be legal non-conforming, and, as such, permitted to continue to operate.

Q. What are the new criteria to be classified as a nightclub?

A. There are a number of criteria that will be considered when determining if an establishment will fall within the nightclub category. These are outlined below:

a. The establishment charges a cover charge, door charge or membership fee

OR

b. The establishment has a minimum drink requirement,
the establishment will be considered to be a nightclub.

Even if you fail to meet criteria “a” or “b” above, if your establishment meets any **three** of the following criteria, “c” through “f”, it will be considered to be a nightclub:

- c. There is a dance floor or an area to view entertainment. This area can be dedicated for this use or created by rearranging or stacking tables and chairs;
- d. The establishment is open to the public between the hours of 1:00 AM and 8:00 AM any given day of the week;
- e. The maximum capacity of the establishment is deemed to be 200 occupants or more per the City of Sunrise fire and/or building personnel;
- f. Alcohol is sold and consumed on the premises;
- g. Advertisements routinely describe specific entertainment oriented events or engagements that will occur at the establishment;
- h. The establishment has a platform or musical staging area used in connection with entertainment. The presence of karaoke machines shall not be deemed entertainment for the purpose of this definition. Likewise, the presence of live entertainment provided by one person, not utilizing pre-recorded music shall not be deemed entertainment for the purpose of this definition.

Q. What happens if the bar or restaurant business that I own is located in a B-2 zone and the City determines that, based on the above criteria, it is really a nightclub and is not a legal non-conforming use?

A. A business may not conduct “nightclub” operations within the B-2 zone and may be subject to code enforcement action. You may consider interior alterations to your place of business, i.e. removing a stage or platform. You may consider a change in the way you operate your business such as eliminating an entrance cover charge or minimum drink requirement if applicable. The Planning and Development Department staff will be available to consult with you about the options that you have. For these and any other questions pertaining to these issues, call us at 954-746-3270 and we will be glad to guide you.