City of Port St. Lucie

Planning & Zoning Department

A City for All Ages

ALCOHOLIC BEVERAGES LICENSE CHECK LIST FOR ZONING REVIEW

The following materials are required for a complete review of Alcoholic Beverage Licenses for zoning compliance by the Planning and Zoning Department:

1. State Application fully completed and signed.

2. Acknowledgement of Compliance with Ordinance 06-107 and Ordinance 08-111; Alcoholic Beverages, completed, signed and notarized.

3. Notification form completed.

4. See "Fee Schedule" for processing fee.

City of Port St. Lucie

Planning & Zoning Department

NOTIFICATION

I ACKNOWLEDGE THAT REVIEW OF THE Alcoholic Beverage License for the location listed below by the City of Port St. Lucie is limited to compliance with the requirements of the local City Zoning Ordinance. I further acknowledge that this review does not address other issues or State of Florida requirements, such as those included in F. S. 562.45(2)(a) which requires a 500 foot separation distance between on-premises consumption of alcoholic beverages and schools.

Name of Applicant:_____

Business Address:_____

Business Address:_____

Phone Number:_____

Date:_____

Acknowledgement of Compliance with Ordinance 06-107 and Ordinance 08-111, Alcoholic Beverages

Business Name

Applicant _____

_____
(Printed name of company and person applying for permit)

_____
Phone # Fax #

PRIMARY CONTACT EMAIL ADDRESS:

Legal Description: _____ _____ _____
Lot Block Section

Parcel ID Number _____

Subject Street Address: _____

_____

Please initial which type of application is being requested:
New _____ Transfer _____ Renewal _____

WHEREAS, Applicant has agreed to comply with the aforementioned City Ordinance; and

WHEREAS, Applicant acknowledges they have read and understand the following ordinances, and agrees to be compliance, therewith Ordinance 06-107;

Business Owner's Initial	*Section Number of Ordinance*
	110.02 Proximity to Religious Institution or School.
	110.03 Hours of Sale
	110.04 Minors
	110.05 Possession of Open Containers
	110.06 Subsequent Establishment of Religious Institution or School
	110.09 Penalties and Fines

Yes/No	Business Owner's Initial	110.07 Exception to Distance Requirements Please check yes or no and initial, if any of the following exemptions apply to your business.
		(a) Full-Service Restaurants
		(b) Publicly-Owned Facilities
		(c) Certain Bars/Nightclubs and Hotels or Motels
		(d) Packaged Sale of Beer and/or Wine

NOW, THEREFORE, the Applicant hereby acknowledges as follows:

1. The applicant is in total compliance with Ordinance 06-107 by this reference.

2. In consideration for the City reviewing the Application, Applicant hereby agrees to hold City, its agents, employees and affiliates, harmless from any and all manner of actions, causes of action, suits, damages, judgments, executions, claims for personal injury or property damage, demands or losses of any kind whatsoever, in law or in equity, which may arise as a result of Applicant's negligence to comply with Ordinance 06-107.

IN WITNESS WHEREOF, Applicant has executed this Acknowledgment on the date indicated below.

_____

For Applicant By: (printed name) Signature: Date:

STATE OF FLORIDA

County of: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ of _____. Said person is personally known to me, or produced other identification, to wit: _____.

_____

Signature

_____

COUNCIL ITEM 8H
DATE 10/27/08

COUNCIL ITEM 10H
DATE 10/13/08

ORDINANCE 08-111

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION 110.03 OF THE PORT ST. LUCIE CITY CODE, ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. That Section 110.03, Port St. Lucie City Code, is hereby amended to read as follows:

Section 110.03. Hours of sale.

(a) ~~No alcoholic beverages shall be sold within the territorial limits of the City between the hours of 2:00 a.m. and 9:00 a.m. each day.~~ It shall be unlawful for any person to sell or serve, or to permit the sale or service of any alcoholic beverages in any place holding an alcoholic beverage license under the regulation of the Florida Department of Alcoholic Beverages and Tobacco, within the territorial limits of the city between the hours of 2:00 a.m. and 9:00 a.m., each day. Further, no consumption of alcohol shall occur after 2:30 am and no persons, not to include employees, shall be present in the establishment after 2:30 am.

(b) All licensees of alcoholic beverages or intoxicating liquors shall comply with this section and any future City Ordinance pertaining to the hours of sale of alcoholic beverages or intoxicating liquors.

Section 2. **Effective Date.** This Ordinance shall become effective immediately upon approval.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 27th day of OCTOBER, 2008.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Patricia P. Christensen, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

Roger G. Orr, City Attorney

Additions to text are indicated by underline; deletions by ~~strikeout.~~

COUNCIL ITEM 8I
DATE 9/25/06

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION 110 OF THE CITY CODE, ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

ARTICLE I. That Sections 110.01 through 110.99, Port St. Lucie City Code, are hereby repealed and amended to read as follows:

This Chapter shall be known as "Alcoholic Beverage Code."

Authority

This Chapter is enacted under the home rule power of the City of Port St. Lucie in the interest of the health, safety, peace and general welfare of the people of the City, and under the authority of the City to regulate the sale and consumption of alcoholic beverages under the Twenty First (21st) Amendment to the United States Constitution.

Purpose and Findings of Fact

(a) Alcoholic beverages can be addictive, dangerous and abused. Those who drink alcoholic beverages sometimes injure themselves, their family or innocent third parties.

(b) Those who sell alcoholic beverages profit off those who consume alcoholic beverages, whether those consumers use alcoholic beverages responsibly or abuse alcoholic beverages.

(c) Due to the misuse of alcoholic beverages, the State and City consider the sale of alcoholic beverages to be a privilege that carries with it important and sometimes burdensome responsibilities.

(d) The City has enhanced police powers over alcoholic beverages pursuant to the Twenty First (21st) Amendment to the United States Constitution and enacting the provisions of this chapter, the City Council is exercising the full strength of that 21st Amendment power.

ARTICLE II. GENERAL PROVISIONS

Sec. 110.01. Definitions.

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

Alcoholic Beverage. Any beverage containing more than one half of 1% or more of alcohol by volume, as determined in accordance with Section 561.01(4)(b), Florida Statutes.

Food Store Selling Alcoholic Beverages. Any food or convenience store which has a license for package sales of alcoholic beverages from the Florida Division of Alcoholic Beverages and Tobacco.

Hotel. Any establishment generally accepted as a hotel and so licensed under the laws of the state of Florida and ordinances of the City of Port St. Lucie, and having 100 rooms or more for the accommodation of guests.

Intoxicating Liquor. Means and includes only those alcoholic beverages containing more than 4.007% of alcohol by volume. The determination of the percentage of alcohol by volume shall be made as provided in Section 561.01(4)(b), Florida Statutes.

Motel. Any establishment generally accepted as a motel or motor court and so licensed under the laws of the state of Florida and ordinances of the City of Port St. Lucie, and having 100 rooms or more for the accommodations of guests.

Open Container. Any bottle, can, cup, glass, or other receptacle containing any alcoholic beverage which is open, which has been opened, which has its seal broken, or which has had its contents partially removed.

Owner. Any person holding an occupational license for a store.

Package Store. Any establishment which sells beer, wine and liquor for off-site consumption.

Person. Any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation, or other legal entity and shall include the plurals as well as the singular.

Religious Institution. Any building used primarily for religious services and religious education regularly and the title to which is owned or held by such religious institution. Religious institution property, as defined herein, includes the ground or land upon which a religious institution and its permitted accessory uses are located and which is in ownership or lease control of the religious institution on the property.

School. All public schools, and parochial and private schools offering substantially the same course of instruction available in public schools, but shall not include universities, colleges, and other institutions of post-secondary education. School property, as defined herein, includes the ground or land upon which a school and its permitted accessory uses are located and which is in ownership or lease control of the school on the property.

Special License. The license issued by the state to any bonafide hotel, motel or motor court, restaurant or caterer, pursuant to Section 561.20(2), Florida Statutes, or to any club pursuant to Section 565.02(4), Florida Statutes.

Vendor. Any person who sells or offers for sale alcoholic beverages at retail in the City in any quantity.

Section 110.02. Proximity to Religious Institution or School.

(a) Except as provided in Section 110.06, no license shall be granted to a vendor of alcoholic beverages whose place of business is or shall be within 1500 feet of a school or religious institution.

(b) Any person entitled to a special license as of the effective date of this Ordinance, shall be exempt from the distance limits provided in sub-section (a) of this section. The limitations of sub-section (a) of this section shall apply to any person who shall become entitled to a special license after such effective date. However, the limitation of subsection (a) of this section shall not apply to any person who shall become entitled to a special restaurant license as defined by Section 561.20(2)(a)(4), Florida Statutes.

(c) Distance measurement. The distance restriction defined in subsection (a) shall be measured by drawing a straight line between the closest property line of the proposed commercial establishment at which alcoholic beverages would be present and the property line of the religious institution or school. In the case of a multi-use building located upon a single tract of land, the distance shall be measured by drawing a straight line between the outermost exterior wall of the unit within the multi-use building intended for use as a commercial establishment at which alcoholic beverages are present and the outermost wall of the unit of the religious institution or school.

(d) The limitations of subsection (a) of this section as they relate to schools shall not apply to vendors of malt beverages and wines containing alcohol no more than 22% by volume.

Section 110.03. Hours of sale.

(a) No alcoholic beverages shall be sold within the territorial limits of the City between the hours of 2:00 a.m. and 9:00 a.m. each day.

(b) All licenses of alcoholic beverages or intoxicating liquors shall comply with this section and any future City Ordinance pertaining to the hours of sale of alcoholic beverages or intoxicating liquor.

Section 110.04. Minors. It shall be unlawful for any person, his servant or employee, to permit anyone under the age of eighteen (18) years to visit or frequent any bottle club or any establishment where alcoholic beverages are sold or consumed on the premises provided however, that this section shall not apply to a minor who is accompanied by a parent or guardian. This section shall not apply where the minor is present in a full-service restaurant, as defined by Section 110.07(a).

Section 110.05. Possession of Open Containers.

1. (a) It shall be unlawful for anyone to consume or possess open containers of beer, wine, alcoholic beverages or intoxicating liquors off the premises of an establishment dealing in alcoholic beverages, or a bottle club, which are licensed as such, and within 500 feet of the premises, except within closed buildings or on premises occupied solely by residential structures. The distance set forth in this section shall be measured from the shortest route of ordinary pedestrian travel along public thoroughfares from the principal entrance of the establishment dealing in alcoholic beverages, or bottle club, to the location of the violation of this section.

(b) Each establishment dealing in alcoholic beverages and each bottle club shall, at all times when such establishment is open to the public or is dispensing or selling alcoholic beverages, have located in the interior as well as the exterior portions of the building licensed for sale of such beverages, where it can be readily seen and read by

customers of the establishment, a sign prominently displayed of a size at least one foot by 2 feet containing the following information: IT IS UNLAWFUL TO CONSUME OR POSSESS ALCOHOLIC BEVERAGES WITHIN 500 FEET OF THIS ESTABLISHMENT AND OFF OF THESE LICENSED PREMISES.

(c) The City Manager shall prescribe by rule the location of the signs and the size of the lettering following as his guideline the criteria set forth above. It shall be unlawful for the owner of any establishment dealing in alcoholic beverages or any bottle club to fail to comply with this section or for any person to sell, dispense or serve alcoholic beverages in any establishment which is not in compliance with this section. The requirement of this section shall apply to all establishments dealing in alcoholic beverages and bottle clubs, whether or not they are licensed or become licensed in the future.

2. *This section shall not apply to:*

(a) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign.

(b) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages, provided that the alcoholic beverage is being transported solely for commercial purposes.

(c) The transportation of any open container of alcoholic beverage in or on any motor vehicle, provided that the container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk, or other nonpassenger or nondriver area of the motor vehicle.

(d) The transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, and the separate passenger compartments of limousines; provided the operator thereof is duly licensed and operating within the scope of his employment, and is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage. *The operator must have in his possession evidence of employment by a bona* fide chauffeur service, limousine service, taxicab company, or bus company.

Section 110.06. Subsequent Establishment of Religious institution or School. Whenever a vendor of alcoholic beverages has procured a license certificate permitting the sale of alcoholic beverages and thereafter a religious institution or school shall be established within 200 feet of the vendor of alcoholic beverages, the establishment of the religious institution or school shall not be cause for the discontinuance or classification as a non-conforming use of the business as a vendor of alcoholic beverages.

Section 110.07. Exception to Distance Requirements. The sale of alcoholic beverages for on-premise consumption or the package sale of alcoholic beverages shall be exempt from the provisions of Section 110.02 for the following as described below:

1. Full-service restaurants
2. Publicly-owned facilities
3. Bars, nightclubs, and hotels or motels where there is no direct access from or to the outside
4. Package sale of beer and/or wine

(a) **Full-Service restaurants**. The provisions of Section 110.02 shall not apply to the sale of alcoholic beverages for on-premise consumption at a full-service restaurant, which is defined as an establishment serving full-course meals and engaged primarily in the service of food and non-alcoholic beverages, where alcoholic beverages are generally only consumed or sold in connection with the consumption or sale of food during all hours of operation. A full-service restaurant may have a bar area in which alcoholic beverages are served and consumed without the accompanying sales and consumption of food; however, such a bar area shall be no more than 12% of the total gross floor area of the full-service restaurant.

An establishment which contains pool tables, video games, a stage, live entertainment, illuminated or non-illuminated signs advertising alcoholic beverages, permits dancing or which has live music or plays recorded music at a level above 70 decibels (measured six [6] inches from the source), shall not be considered to be a full-service restaurant. An establishment which charges a cover charge at any time shall not be considered a full-service restaurant. An establishment which advertises anything other than the sale of food shall not be considered a full-service restaurant.

The full-service restaurant must have permanent kitchen facilities located within the premises and which full-course meals are regularly prepared for service to patrons of the establishment. Such kitchen facilities must be designed, constructed, equipped and maintained to actually allow preparation of food and sufficient quantities to serve full-course meals simultaneously to a number of patrons equal to at least 50% of the rated patron capacity of the restaurant. No person shall attempt to circumvent the intent of this part by artifice or scheme, such as the serving of stock meals. Stock meals as used herein are defined to include and refer to the serving of cold plates, snacks, previously prepared sandwiches and any other type of meal which is capable of being served to more than one customer.

The dining area shall contain tables and chairs or booths of standard table height. Counters and tables of cocktail-table height shall not be permitted. All tables shall meet or exceed a minimal acceptable standard of 256 square inches of table space per patron. The bar area, if one exists, shall be visibly or physically separated from the remainder of the full-service restaurant and shall include the bar itself, any stools, chairs, or other seating adjacent to the bar and any other seating separated from the remainder of the full-service restaurant. The bar shall be accessible from within the full-service restaurant and shall not have direct customer access to or from the outside.

(b) **Publicly-owned facilities**. The provisions of Section 110.02 shall not apply to the sale of alcoholic beverages for on-premise consumption at an establishment located within a facility owned by a local, state or federal government entity.

(c) **Certain bars/nightclubs and hotels or motels**. The provisions of Section 110.02 shall not apply to the sale of alcoholic beverages for on-premise consumption at an establishment located within a hotel or motel containing 100 or more guest rooms and such establishment within the hotel or motel has no direct entrance or exit on a public street.

(d) **For packaged sale of beer and / or wine.** The provisions of Section 110.02 shall not apply to a vendor who operates an establishment the primary purpose of which is the package sale of beer and/or wine and who permits on-premise consumption

only for the purpose of beer and/or wine tasting, incidental to the package sale of such beer and/or wine at no charge to the customer.

Section 110.08. Approval as exceptions to distance requirements and zoning official determination.

(a) **Distance variances**. Upon proper petition, variances from the distance regulations of this Code may be granted by the planning and zoning board or zoning administrator of the city, in accordance with the provisions of section 158.297 of this Code.

Section 110.09. Penalties and Fines.

(a) Any person violating any of the provisions of this section shall upon conviction of such offense be punished by fine not to exceed $500 or by imprisonment not to exceed 60 days in the County Jail, or both in the discretion of the court. Each day of continued violation shall be considered a separate offense.

(b) (1) The city may bring suit to restrain, enjoin or otherwise prevent the violation of any provision of this chapter in any court of appropriate jurisdiction in St. Lucie County.

(2) If the owner, operator, lessee, manager, employer or any other person participating in the maintenance or operation of a commercial establishment at which alcoholic beverages are, or are available to be sold, dispensed, consumed, possessed or offered for sale or consumption on the premises violates any provision of this chapter, the city occupational license issued to such violator for the establishment may be revoked by action of the city council at a public hearing upon due notice.

(3) If at any time the license for the commercial establishment at which alcoholic beverages are, or are available to be sold, dispensed, consumed, possessed or offered for sale or consumption on the premises is revoked pursuant to subsection (b)(2) above, no such license may be issued for the same establishment for at least one year after the date of revocation. Further, such license may be issued only after a public hearing held before the city council.

Section 2. Effective Date. This Ordinance shall become effective immediately upon approval.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 25th day of September, 2006.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

By: _____
Robert E. Minsky, Mayor

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM: _____
Roger G. Orr, City Attorney