

PROPOSED ORDINANCE NO. 25-09
ORDINANCE NO. #3117

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE, FLORIDA, CHAPTER 4, ALCOHOLIC BEVERAGES, SECTION 4-1, DEFINITIONS; SECTION 4-3, HOURS OF SALE; SECTION 4-4, CONDITIONS OF OPERATIONS; SECTION 4-5 REGULATION OF RESTAURANTS; CREATING SECTION 4-9 AFTER MIDNIGHT ALCOHOL SALES PERMITS FOR THE DOWNTOWN COMMUNITY REDEVELOPMENT DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kissimmee has received persistent complaints from the public regarding noise violations at establishments that sell alcohol within the Downtown Community Redevelopment Area (hereinafter “Downtown CRA”) and such complaints often lead to a police response; and

WHEREAS, pursuant to Section 562.14, Florida Statutes, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the Division of Alcoholic Beverages and Tobacco between the hours of midnight and 7:00 a.m. unless otherwise provided by municipal ordinance; and

WHEREAS, the City of Kissimmee Commission enacted City Code Section 4-3, which extended the hours that alcoholic beverages were permitted to be served or consumed in places holding such license, from midnight to 2:00 a.m.; and

WHEREAS, the City of Kissimmee Commission finds that the privilege of selling alcoholic beverages after midnight should only be extended to businesses within the Downtown CRA that comply with the City’s noise ordinance; and

WHEREAS, along with persistent noise complaints, the City of Kissimmee Commission finds that a disproportionate amount of City resources are allocated to the Downtown CRA during the night and early morning hours for crowd control and to investigate and deter criminal and violent activity; and

WHEREAS, the City of Kissimmee Commission finds a correlation between noise violations by establishments that sell alcohol within the Downtown CRA and the need for additional City resources to perform crowd control, investigate city code violations, and investigate and deter criminal and violent activity, particularly between the hours of midnight and 3:00 a.m.; and

WHEREAS, the City of Kissimmee Commission has determined that it is necessary to impose additional regulations upon establishments that sell alcohol within the Downtown CRA to preserve public safety and better balance resources city-wide, while allowing the sale of alcoholic beverages between the hours of 12 a.m. and 2 a.m.; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA IN LAWFUL SESSION ASSEMBLED AS FOLLOWS:

For purposes of changes to the text of the Code of Ordinances as set forth below, underlined words indicate additions to existing text, and stricken words include deletions from existing text.

SECTION 1. Chapter 4 of the Code of Ordinances of the City of Kissimmee, titled, Alcoholic Beverages, is hereby amended to read as follows:

Section 4-1 Definitions.

Outdoor dining area means a space that is out of doors, like a porch or patio, in which where a restaurant, microbrewery, distillery, tasting room, or specialty retail establishment may lawfully serve alcoholic beverages pursuant to an alcohol licensee issued by the State of Florida. Unless permitted by a valid outdoor dining permit, an outdoor dining area must be on private property serves food and beverages as part of the operation of the licensed premises of a restaurant as a sidewalk cafe or porch area. An outdoor dining area must be located contiguous to the licensed restaurant and may only be separated by a sidewalk. No part of a sidewalk cafe or An outdoor dining area shall be located within the right of way and must meet all other requirements of zoning applicable to the location.

Section 4-3 Hours of Sale.

- (a) The ability to sell intoxicating liquor for consumption on premises or package sale is hereby declared to be, and is, a privilege subject to modification, suspension, or termination by the City. No person or establishment may reasonably rely on a continuation of that privilege. As a condition of the continuation of this privilege, these establishments should take all necessary steps to minimize or eliminate the negative impacts that their establishment may cause. Establishments which sell intoxicating liquor for consumption on premises or package sale, within the City of Kissimmee, not including restaurants, microbreweries, distilleries, tasting rooms, and specialty retail establishments which sell

intoxicating liquor for consumption on premises within the Downtown Community Redevelopment Area as defined in Section 22-27 (hereinafter "Downtown CRA"), may only be open for business between the hours of 7:00 a.m. and 2:00 a.m. on all days.

- (b) Restaurants, microbreweries, distilleries, tasting rooms, and specialty retail establishments that sell intoxicating liquor for consumption on premises within the Downtown CRA may only be open for business between the hours of 7:00 a.m. and 12:00 a.m. on all days.
- (c) Notwithstanding Section 4-3(b) above, restaurants, microbreweries, tasting rooms, and specialty retail establishments which sell intoxicating liquor for consumption on premises within the Downtown CRA, may also be open for business between the hours of 12:00 a.m. and 2:00 a.m. on all days pursuant to an **After Midnight Alcohol Sales Permit as further described in Section 4-9.**
- (d) ~~(b)~~ The opening of the doors of any such establishment 15 minutes prior to closing time for the purpose of admitting customers is hereby prohibited.
- (e) ~~(e)~~ Any establishment dispensing or selling intoxicating liquor will be construed open for business under this section if any ~~customer~~ person, except an employee or person with an ownership interest in the establishment, is inside the place of business, it is the intention of this section that all ~~customers~~ persons, except employees or persons with an ownership interest in the establishment, shall have vacated such place on or before the designated closing hour set forth in subsections (a), (b), or (c) ~~of this section,~~ and that no ~~customer~~ person, except an employee or person with an ownership interest in the establishment, shall be admitted to or be inside of such place of business after ~~2:00 a.m. on any day of the week~~ the allowed times of sale as set forth in subsections (a), (b), or (c) and shall not gain admittance before the allowed times of sale as set out in subsections (a), (b), or (c) ~~of this section.~~
- (f) ~~(d)~~ Establishments meeting all state and local requirements for dispensing or selling intoxicating liquors may only dispense intoxicating liquor within the allowed hours of sale outlined above.

Sec. 4-4. - Conditions of operations.

- (a) It shall be unlawful for any establishment which is authorized to sell or dispense intoxicating liquor, or any of its agents, servants and employees, to knowingly or intentionally:
 - (1) Allow indecent, offensive, shocking and revolting conduct in or on the premises for which a license hereunder has been issued to such an extent that such conduct annoys,

disturbs, and inconveniences reasonable people properly and legitimately in or on such premises, or in the reasonable neighborhood of such premises.

(2) Knowingly allow any person to take away from the licensed premises any opened intoxicating liquor in any glass or other open or unsealed container.

(3) Allow the consumption of any intoxicating liquor in or upon any parking or other area outside of the building ~~other than~~ except for an outdoor dining area~~areas approved by a site plan or building permit as an outdoor dining area or sidewalk cafe.~~

(b) Anyone violating any part of this section upon conviction shall be punished as provided in section 1-22.

Section 4-5 Regulation of Restaurants

(a) To qualify as a bona fide restaurant under this chapter, the establishment must ~~offer cook, prepare, and serve meals, other than stock meals, as further defined by Section 4-1, to the general public during all posted business hours at least one complete meal per day, that is, lunch or supper, such meals to be offered for sale within the usual hours during which such meals are generally consumed.~~ A restaurant shall derive at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operating period thereafter.

(b) Restaurants must have present in the establishment, and available and ready, the necessary facilities and personnel to accommodate ~~their~~ its patrons in the normal restaurant manner and be capable of seating not less than 50 persons simultaneously. Within the Downtown Community Redevelopment Area Overlay (CRAO), the following must be met:

(1) Restaurants selling intoxicating liquors for consumption on premises shall be capable of seating no less than 80 persons simultaneously and shall occupy a minimum of 1,800 square feet. The criteria in this section shall also be met.

(2) Restaurants selling beer and wine for consumption on premises shall be capable of seating no less than 30 persons simultaneously and shall not have a minimum square footage requirement. The criteria in this section shall also be met.

(c) Any establishment regulated by this chapter shall obtain a city business tax receipt prior to conducting any business activities. An interior layout, exterior layout, menu, and a detailed explanation of the business activities, including hours of operation, shall be provided and approved by the city prior to any business tax receipt or certificate of occupancy (CO) issuance. Any dining or other activities planned outdoors shall meet the criteria in sections 14-5 and 14-6 and obtain any necessary approvals from the city.

(d) Any establishment attempting to circumvent the intent of this section by an artifice or scheme, such as the serving of stock meals, shall be subject to the penalties herein set forth.

(e) Any person securing a business tax receipt under the provisions of this section who, during the time such business tax receipt is in existence, shall discontinue operation of a restaurant for the main purpose of serving meals to the general public shall be subject to having their business tax receipt immediately revoked.

Section 4-9 After Midnight Alcohol Sales Permits For the Downtown Community Redevelopment District (Downtown CRA)

(a) Definitions. As used in this Section, the term:

(1) Chief means Chief of Police.

(2) Establishment means any restaurant, microbrewery, distillery, tasting room, or specialty retail establishment within the Downtown Community Redevelopment Area as defined in Section 22-27 that is licensed under the state beverage laws.

(3) Permit means After Midnight Alcohol Sales Permit.

(4) Permitted Establishment mean an Establishment holding a Permit.

(5) Permit Holders means all persons with an ownership interest in and all persons exercising control over the operation of a Permitted Establishment.

(b) Permit Required. Any Establishment that desires to remain open for the purpose of the sale, service, or consumption of alcoholic beverages between the hours of 12:00 a.m. and 2:00 a.m. may make application with the City for a Permit. The provisions of this Section shall not impair or impact an Establishment's right to remain open and sell, serve, or permit to be served or consumed, alcohol between the hours of 7:00 a.m. and 12:00 a.m. No Permit may be issued to an Establishment that has any outstanding obligations to the City, including but not limited to any outstanding code violations or liens.

(c) Application Form. The Application Form for a Permit shall be provided by the City and will require information about the Establishment, including but not limited to, the name, physical and mailing addresses, and telephone number of the Establishment, the name(s), address(es), and telephone numbers(s) of all persons with an ownership interest in the Establishment, the name(s) and telephone number(s) of the all persons exercising control over the operation of the Establishment, the maximum occupancy of the Establishment, the type of alcohol license possessed by the Establishment, and the name and address where notices related to enforcement of this Section are to be mailed or delivered. A Permitted Establishment shall amend the Permit application that is on file with the City within ten (10) days of any change in the information set forth on the application form. The Chief may terminate a Permit if a Permitted Establishment fails to amend its Permit application as required by the subsection. Establishments must pay an administrative fee of \$250 in conjunction with the initial Permit application, and any subsequent renewals. The

administrative fee will be utilized to reimburse the City for its costs to administer the Permit program, as well as inspecting and regulating Permitted Establishments. All Permits shall require the signed approval of the Chief. No Permit may be issued to or renewed for an Establishment if any person with an ownership interest in and all persons exercising control over the operation of the Establishment is a Permit Holder for any Establishment that is currently serving a suspension or revocation under this Section.

- (d) *Permit Review.* The Chief, or their designee, shall review the Application Form for a Permit. If the application is complete and the Establishment meets the criteria set forth in subsections (b) and (c), then the Chief shall issue a Permit to the Establishment authorizing the Establishment to sell alcohol between the hours of 12:00 a.m. and 2:00 a.m., subject to the conditions of the Permit, as well as the provisions of this Section and applicable laws, rules, and regulations.
- (e) *Permit Effective Term.* Unless suspended or revoked as provided by this Section, the Permit shall be valid for a 12-month term only if the Permitted Establishment maintains a valid business tax receipt and continues to operate at the physical location listed on the Permit application.
- (f) *Inspection.* Acceptance of, and operation pursuant to, a Permit shall be deemed to be the approval, permission and authorization by the Permitted Establishment for any law enforcement or code enforcement officer to enter the Permitted Establishment, when such Permitted Establishment is open, and conduct a search to determine whether any provisions of law, including this Section, are being violated. "Open," for the purpose of this Section, shall mean any time members of the public are inside the Permitted Establishment, whether or not they have paid a fee to enter, or whether or not their presence is pursuant to a private event. It is unlawful for any Permitted Establishment to refuse to allow an inspection of the Permitted Establishment as described by this subsection at any time the Permitted Establishment is open.
- (g) *Suspension.* The Chief may suspend a Permit for thirty (30) days if the Chief determines one or more of the following conditions have occurred:
 - (1) The Permitted Establishment violated, as determined by the Code Enforcement Magistrate or a Judge, a City Code provision related to the operation of the Permitted Establishment, and such violation negatively impacts the safety or security of patrons, including but not limited to Section 24-19, Adoption of state and national fire codes by reference, and Section 9-251, adopting the Florida Building Code;
 - (2) The Permitted Establishment engaged in, or allowed, the use of alcoholic beverages at the Permitted Establishment after closing hours by any person;

- (3) The Permitted Establishment refused to allow an inspection of the Permitted Establishment as authorized by this Section;
- (4) The Permitted Establishment knowingly permitted the use of controlled substances at the Permitted Establishment, or should have known of the use of a controlled substance at the Permitted Establishment and failed to take the necessary actions to prevent future occurrences;
- (5) On two occasions within an eighteen (18) month period, the Permitted Establishment was the site of a violation of:
 - i. Any felony battery offense,
 - ii. Any felony offense related to the possession or use of a firearm,
 - iii. Any aggravated assault offense,
 - iv. Any offense related to homicide or manslaughter, or
 - v. Any attempt to commit any of the offenses listed above.
- (6) The Permitted Establishment knowingly permitted gambling by any person at the Permitted Establishment;
- (7) The Permitted Establishment knowingly permitted, or should have known of, the possession or consumption by a minor of an alcoholic beverage at the Permitted Establishment, or the sale to a minor of an alcoholic beverage at the Permitted Establishment, or allowed a minor to enter and remain at the Permitted Establishment;
- (8) The Permitted Establishment was charged with a violation of Chapter 562, Florida Statutes, titled “Beverage Law: Enforcement;”
- (9) The Permitted Establishment violated any condition of a Permit;
- (10) The Permitted Establishment violated any condition of a side walk café permit issued to the Permitted Establishment;
- (11) Code enforcement proceedings were instituted against the property where the Permitted Establishment is located for failing to obtain a special event permit as required Section 14-6-28; or
- (12) Code enforcement proceedings were instituted against the property where the Permitted Establishment is located or a citation was issued at the physical address of the Permitted Establishment for failing to comply with Chapter 22, Article II, Noise. In the event of any conflict between this Chapter and Chapter 22, Article II, concerning noise issues, the provisions of Chapter 22, Article II shall govern.

- (13) The Permitted Establishment exceeded its authorized occupancy load, as determined by a local or state official, including but not limited to a code enforcement officer, police officer, or fire inspector.

If the Chief of Police suspends a Permitted Establishment's Permit, all Permit Holders of the Permitted Establishment shall be barred from receiving a Permit for any other Establishment for the duration of the suspension.

- (h) Revocation. The Chief may revoke a Permit if the Permit is suspended twice within any 12-month period. Revocations are effective for a one year period, and the Permitted Establishment and all Permit Holders of the Permitted Establishment shall be barred from receiving a Permit for the Permitted Establishment or any other Establishment for a period of one year from the date the revocation became final. Revocations may also be issued if the Chief determines that one or more of the following conditions have occurred and that the Permitted Establishment has not taken reasonable actions to prevent future occurrences:

- (1) The Permitted Establishment has given false or misleading information in the material submitted during the Permit application or reapplication process or when amending a Permit application;
- (2) The Permitted Establishment has knowingly allowed the sale of controlled substances or any derivative thereof at the Permitted Establishment;
- (3) The Permitted Establishment allowed a member of the public to enter the Permitted Establishment and allowed the person to be served or to consume any alcoholic beverage between 12 a.m. and 2 a.m., during a period of time when the Permit was suspended.

If, subsequent to revocation, the Chief determines that the basis for the revocation action has been corrected or abated, or determines that the Permitted Establishment has taken action to ensure that the basis for the revocation will not occur again, which action(s) the Chief reasonably believes will ensure that the basis for the revocation will not occur again, the Permitted Establishment may be granted a new Permit if at least ninety (90) days have elapsed since the date the revocation became final. The Permitted Establishment shall reapply for a new Permit in the same manner as for the initial Permit.

- (i) Notice. Notice of the suspension, revocation, denial of issuance or renewal of a Permit shall be made in writing, by hand delivery to the Establishment and first-class mail to the Establishment at the mailing address provided in the application. The notice shall include a notification of the right to appeal the decision and, for notices of suspension or revocation, identify the length of the suspension or revocation and the date of the first and last day the suspension or revocation is effective.

- (j) Appeals. An Establishment may appeal the decision of the Chief to the City Commission by filing a written statement with the City Clerk detailing the grounds for appeal within 14 days after the Establishment receives notice of suspension, revocation, denial of issuance or renew of a Permit. The filing of an appeal stays the action of the Chief in suspending or revoking a Permit or denying issuance or a renewal of a Permit until the City Commission makes a final decision. If during the pendency of a stay, the Permitted Establishment commits any other violation of this Section which would warrant suspension or revocation, the Chief may suspend or revoke the Permit as provided herein, subject to any appeal, and such suspension or revocation shall not be stayed. If upheld on appeal, or if not appealed, suspensions shall be applied consecutively, and a revocation could be applied instead of a suspension, as provided in this Section. The City Clerk shall set the date for the hearing as soon as is reasonably possible, however, not more than thirty (30) days from the date the written appeal is received. The City Commission shall hold a public hearing to hear and consider evidence offered by any interested person to determine whether the Chief properly denied issuance or renewal of a Permit or properly suspended or revoked the Permit in accordance with the provisions of this Section. The City Commission's decision shall be final.
- (k) Suspension and Revocation Not Exclusive Enforcement Mechanisms. Nothing in this Section shall be construed or interpreted to prohibit the City from enforcing its codes and ordinances by means other than those provided by this Chapter, including without limitation, by summons, notice to appear in court, arrest, issuance of a citation, a civil action, or code enforcement proceedings.

SECTION 4 SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 5. CONFLICT. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. ADMINISTRATIVE CORRECTION. This Ordinance may be re-numbered or re-lettered, and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Attorney, without the need of a public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 7. CODIFICATION. This ordinance shall be codified as a part of the City of Kissimmee City Code. The codifier is authorized to make editorial changes not affecting the

substance of this ordinance by the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise to take such editorial license.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be published as provided by law, and it shall become law and shall take effect on October 1, 2025.

BE IT ORDAINED, by the City Commission of the City of Kissimmee on this 15th
day of July, 2025.



ATTEST:

Jackie Espinosa

Jackie Espinosa, Mayor-Commissioner

Tameara Crespo

Tameara Crespo, City Clerk

Approved as to form and legality:

Olga Sanchez de Fuentes

Olga Sanchez de Fuentes, City Attorney