

ORDINANCE #2014-38

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING ARTICLE IV, "ALCOHOLIC BEVERAGES," IN CHAPTER 74, "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS," OF THE CITY CODE OF ORDINANCES BY CREATING AN EXTENDED HOURS ALCOHOL SALE LICENSE; PROVIDING FOR CONDITIONS AND PROCESS FOR ISSUANCE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 74 of the City of Doral's (the "City") Code of Ordinances (the "Code") provides the manner by which establishments duly-licensed by the State of Florida may sell alcoholic beverages within City limits; and

WHEREAS, section 74-194 specifically provides the hours of operation during which alcoholic beverages may be sold in various types of duly-licenses retail establishments, including, but not limited to, restaurants, hotels and motels, private clubs, bars and cocktail lounges, golf course clubhouse and ancillary refreshment stands, and non-for-profit theaters with live performances (the "Retail Establishments"); and

WHEREAS, it is in City's economic interest to be able to provide Retail Establishments with the privilege of extended hours of operations to provide on-premise sale and consumption of alcohol during an event of municipal and/or regional significance, such as, without limitation, the Miss Universe Pageant and related events which the City is hosting from December 1, 2014 through January 31, 2015; and

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WHEREAS, the City desires to provide Retail Establishments that comply with the specific criteria in this Ordinance the privilege of extending their hours of operation for the sale of alcoholic beverages until 3:00 am in order to take advantage of the increased consumer activity related with the Miss Universe Pageant and such other events as determined by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Code Amended. The Code of Ordinances of the City of Doral is hereby amended as follows:

CHAPTER 74 – MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS

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ARTICLE IV. – ALCOHOLIC BEVERAGES

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Sec. 74-196. – Extended hours license

(a) *Applicability and eligibility.* A vendor of alcoholic beverages, defined in sections 74-183, duly-licensed by the State of Florida, and lawfully operating an establishment in the City, may apply for a license to extend the hours during which alcohol may be sold for on-premise consumption (the “Extended Hours License”) provided that such person or vendor has been operating 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 section. The fee for the issuance of said license shall be set by resolution of the City Council. An Extended Hours License shall permit a licensee to remain open until 3:00 a.m. on any day during the permitted period. An Extended Hours License shall be valid only for that period of time specified by the City Council and shall expire midnight on the last day of the period established by the City Council. A vendor that seeks to sell alcohol during any extended period must maintain and display a valid Extended Hours License during all hours of operation.

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

1. A copy of the vendor's local business tax receipt and Certificate of Use; and
2. A copy of the vendor's State of Florida alcoholic beverage license;

(c) *Review criteria.* An application for an Extended Hours License shall be submitted for review and comment of the Planning and Zoning Department. Review of the application shall be based upon the following criteria:

1. Compliance with applicable zoning and use requirements; and
2. Mitigation of 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, including, but not limited, light and noise from music and/or patrons that may disturb surrounding properties.

(d) *Approval; Denial; Issuance.* A fully completed application, accompanied by the requisite documentation and fee, that conforms to the review criteria may be approved for an Extended Hours License, subject to final approval by the City Manager. The City Manager may impose reasonable conditions on the issuance of the Extended Hour License with the goal of mitigation adverse effects, if any, associated with the extended sale times. An application which does not conform to the review criteria set forth herein shall be denied. Upon approval of an application for an Extended Hours License, the Planning and Zoning Department shall issue the application to the vendor.

(e) *Appeal of decision.* A vendor for which an application for an Extended Hours License is denied may appeal to the City Council. Any such appeal shall be scheduled for a hearing upon payment of the applicable fee as established by resolution of the City Council and required submittal documents. Said appeal must be made in writing to the Department of Planning and Zoning within 21 days of the date of the notice of denial.

(f) *Suspension and/or Revocation of an Extended Hours License.*

1. If the City Manager, the Police Chief and/or their designee determines that any licensee has either violated a condition of the Extended Hour License or the provisions herein or that such vendor is operating in a manner harmful to the public health, safety or welfare, he/she may issue a notice of suspension and/or revocation upon the licensee. Said notice shall be served upon the licensee by: (1) personal service; (2) certified mail; or (3) posting of the notice in a conspicuous place on the property subject to the Extended Hours License. The notice shall afford the licensee with reasonable notice of the

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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 an appellate hearing as provided herein.

2. The licensee may, within five business days of being served with the notice of revocation, make a written request for administrative hearing before the Special Magistrate, pursuant to the procedures found in Chapter 11 of the City Code. Failure to timely request a hearing shall result in the imposition of the suspension or the revocation without further action of the city. The suspension and/or revocation may be enforced during the pendency of any administrative hearing before the Special Magistrate. A hearing shall be scheduled for the next most proximate hearing session before the Special Magistrate, unless mutually agreed upon otherwise by the licensee and the City Manager in writing. At the hearing, the licensee and all other individuals wishing to speak will be afforded a reasonable opportunity to do so. The Special Magistrate may 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 above as appropriate. If the Special Magistrate so finds, it may suspend, revoke, or otherwise impose additional conditions and/or restrictions upon the license or licensee. All decisions by the Special Magistrate in this regard are final.
3. 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 Council is made.
4. 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.

(g) Transferability. An Extended Hours License shall not be transferable.

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Section 3. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

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Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately

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The foregoing Ordinance was offered by Councilmember Cabrera, who moved its adoption. The motion was seconded by Councilmember Rodriguez, and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED on FIRST READING THIS 8 day of October 2014.

PASSED AND ADOPTED on SECOND READING THIS 12 day of November 2014.




LUIGI BORIA, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
FOR THE SOLE USE AND RELIANCE OF THE CITY OF DORAL



WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, PL
CITY ATTORNEY

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