

City of Gainesville Alcohol Ordinance

Summary of Revisions to Chapter 4 – Alcoholic Beverages Article III – Underage Prohibition in Alcoholic Establishments

The summary provided lists potential revisions to the City's alcohol ordinance pertaining to persons under 21 years of age entering alcoholic establishments. The ordinance would require any alcoholic establishment wishing to allow patrons under 21 years of age into the business after 10:00pm to obtain a permit. Obtaining and keeping the permit would be based on meeting various standards as defined in the ordinance. The goals of these revisions are to increase public safety, reduce underage alcohol consumption, and decriminalize minor alcohol related crimes in bars.

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City of Gainesville Alcohol Ordinance

Summary of Revisions to Chapter 4 – Alcoholic Beverages
Article III – Underage Prohibition in Alcoholic Establishments

Alcoholic Beverage Establishment requiring a permit.

Any business engaged in the sale of alcoholic beverages as a primary source of revenue after 10:00 PM.

Alcohol Permit and/or “Open Services” Permit

Any alcoholic establishment that desires to allow patrons under 21 years of age to enter and remain on the business property after 10:00 PM shall be required to obtain an “Open Services” permit. Potential permit requirements:

1. Mandatory staff training
2. ID scanners (*State of Utah statute*)
3. Two ID requirement
4. (Optional) Police Security (*Tampa Police Permit Stipulations*)

Establishments without an “Open Services” Permit shall be required to have a sign at each entrance stating that “No patrons under 21 years age allowed to remain on premises after 10:00 PM.” (*Naperville Ord as example of signage requirement by a city.*)

Another option is to have all alcoholic beverage establishments obtain a permit from the City which would either be “Open Service” or “Limited Service”. (*Tampa Ordinance 27-316*)

Establishment of Specified Districts (Optional)

Define specific districts for alcohol establishments in Downtown District and University Heights. (*Tampa Ordinance Section 27-317*).

****Additional Option is to make the ordinance Citywide for all establishments.*

Historical Facts



Current ordinance is currently not being enforced due to adverse rulings against the City at administrative hearings.

In the last 3 years GPD has a charged 864 for possession of alcohol under 21 years of age. 86% of those charged were in the Downtown or University area.

On a typical Friday or Saturday night GPD will often send 6 to 10 officers from zones to the downtown or mid-town areas at bar closing time.

During the four years the ordinance was implemented and enforced, there was a 44% reduction of persons charged for possession of alcohol under 21 years of age for compared to four years prior.



Enforcement of Ordinance

The Gainesville Police Department will conduct quarterly enforcement details to ensure compliance with the ordinance at alcohol establishments. GPD, utilizing persons under 21 years of age with real IDs, confirm bar staff is:

- 1) Checking IDs and properly verifying person is under 21 years of age.
- 2) Not allowing patrons under 21 to enter a non-permitted business. (\$250.00)
- 3) Not serving alcohol to persons marked as being under 21 years of age.
- 4) Utilizing ID scanners if required to do so.

Violations of the following provisions shall be enforced via a fine and point system. The point system shall reset after a set period. City may impose requirements on any alcohol establishment that is over point system threshold similar to those under the “Open Services” Permit.

***After Discussion with The City Attorney’s Office, GPD would not incur any vicarious liability if working an OT assignment at or for an alcohol establishment.

Stakeholder Feedback

The Gainesville Police Department held two meetings with stakeholders on September 19th and 21st, 2016. The first meeting was attended by two representatives from UF student government. UF Student Body President Susan Webster suggested the two ID requirements for bars to utilize.

GPD members met with bar owners and employees in regards to the possible changes to the ordinance. Their concerns/requests were as follows:

1. Cost of Permit.
2. Cost of any requirements
3. Red staff training and time frame for how long training was good for.
4. Costs of purchasing ID scanners
5. Time frame for reset of permit violations.
6. Associating bar occupancy with requirement due to cost of hiring police as exterior security.
7. Allowing persons under 18 years of age to attend music events at alcoholic establishments without a guardian/parent.



TAMPA ORDINANCE EXCERPTS

- **Sec. 27-316. - Alcoholic beverage permit required.**

It shall be unlawful for any person or entity to sell any type of alcoholic beverage from any parcel of land within the city, unless the parcel of land has been granted a permit for the sale of alcoholic beverages, pursuant to the provisions of this chapter.

- **Sec. 27-317. - Specified districts with increased security requirements.**

(a) *Specified districts are the Central Business District (CBD), Channel District (CD), and Ybor City Historic District (YC), as described in this chapter.*

(b) *Conditions for approval in the specified districts above.* Whenever the subject property of an application is located within a specified district, and it is approved for alcoholic beverage sales for any classification involving on-site consumption, the following conditions shall automatically be imposed:

Security. If, at any time, the property use is a bar/lounge or club, as these terms are defined in this chapter, the following security shall be provided:

(1) Exterior security officers consisting of off-duty (extra-duty) sworn law enforcement officers, of a number as determined appropriate in an application to the law enforcement agency requesting the same, which number shall not be less than two (2); provided however, one (1) exterior security officer may be permitted in the event two (2) immediately adjacent establishments mutually utilize the same two (2) officers, and said arrangement is approved by the law enforcement agency assigning said officers. Exterior security officers shall only be required if the number of occupants exceeds two hundred fifty (250) persons.

(2) Interior security personnel of a number equaling one (1) security officer per one hundred fifty (150) occupants.

(3) When required, interior and exterior security personnel shall be provided seven (7) days a week.

- **Sec. 27-318. - Expiration, suspension, and revocation of approvals for alcoholic beverage sales; posting of notice for discontinuance of sales; evidence of resumption of sales.**

- (c) *Revocation or suspension of sales for cause.*

(1) *Revocation or suspension of sales for cause.* The city council, after conducting a public hearing as provided for in [section 27-318\(d\)](#) is authorized to suspend or revoke the ability to sell alcoholic beverages from property which has previously been granted an approval. In order for city council to suspend or revoke, it must determine that the property owner, holder of the alcoholic beverage license, operator of the establishment, or any agent or employee thereof, have been found to have violated or have been convicted of any one (1) or more of the following:

a. Commission of an act, on or about the property, amounting to a felony under the laws of the state or the United States. For purposes of this section, the term 'on or about' shall include, but not be limited to, activities directly attributable to the approval to sell alcoholic beverages on the



- property, which occur on or about all adjacent sidewalks, rights-of-way and parking areas, both public and private, which patrons or employees may utilize to provide transportation to or from the property;
- b. The maintaining of a nuisance on the property (as said term is defined by this code or common law);
 - c. Engaging in or permitting disorderly conduct on or about the property;
 - d. Operation of the establishment in a manner that repeatedly, or on an ongoing basis, has negative secondary effects on surrounding property, including but not limited to violations of city code, ordinance or state law related to noise, parking, or trash and debris, after having received reasonable notice to terminate or correct any condition that is in violation of such code, ordinance or law;
 - e. Failing to comply with any of the provisions of the fire prevention ordinance after having received reasonable notice to eliminate or correct any condition existing on the property that is in violation of such ordinance;
 - f. Failing to comply with any of the provisions of the health and sanitation ordinances of the city, the county or laws of the state after having received reasonable notice to eliminate or correct any condition existing on the property that is in violation of such ordinances or laws;
 - g. Conviction for selling, giving, serving or permitting to be served alcoholic beverages to persons under twenty-one (21) years of age or permitting a person under twenty-one (21) years of age to consume alcoholic beverages on such property, in accordance with state law;
 - h. Revocation of a license for the sale of alcoholic beverages by the state department of business and professional regulation, division of alcoholic beverages and tobacco;
 - i. The inclusion of false information in applying for an approval to sell alcoholic beverages;
 - j. Conviction or withholding of adjudication or finding of delinquency of any patron of the property for underage possession of any alcoholic beverage;
 - k. Allowing the sale of alcoholic beverages at or from an establishment, while the license for the sale of alcoholic beverages is suspended by the state department of business and professional regulation, division of alcoholic beverages and tobacco.
 - l. Been convicted of the exterior maximum sound levels as provided for in [section 14-151](#), excessive noise.
 - m. Violated any part of [section 27-319](#); Records; annual reports; revocation of "R" classification zoning.
 - n. Violated any section of [Chapter 14](#) or Chapter 27, any condition, limitation or restriction imposed by city council or the zoning administrator at time of approval, or any other section of the City of Tampa Code relating to alcoholic beverages.

City council may suspend the ability to sell alcoholic beverages for up to thirty (30) days for the first (1st) violation, sixty (60) days for the second (2nd) violation, and ninety (90) days for the third (3rd) violation. Upon the fourth (4th) or subsequent violation, city council may consider revocation of the approval to sell alcoholic beverages. In determining whether to suspend or revoke an approval to sell alcoholic beverages, city council shall consider:



- a. The gravity of the violation;
- b. Any actions taken by the violator to correct the violation; and
- c. Any previous violations committed by the violator.

Unless a public record is exempt from disclosure pursuant to F.S. Ch. 119, the owner of property shall be provided written notice of a violation by the city.

(2) For purposes of this section, the terms "convicted" or "conviction" shall mean being found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a violation of a municipal or county ordinance or state or federal law, as provided herein. The terms "violation" or "violated" shall mean being found in non-compliance with any part of this Code and shall include the terms "convicted" or "conviction," as determined by the reviewing city department.

(d) *Notice to owner and licensee of intention to revoke or suspend; public hearing.* Prior to revoking or suspending, city council shall hold a noticed public hearing. The city clerk shall notify the owner of the property and the holder of the alcoholic beverage license by certified mail pertaining to the property of its intention to revoke or suspend the sale of alcoholic beverages from the subject property. City council shall grant the affected party a public hearing at a time and place to be specified in the notice and at a time not less than thirty (30) days from the date of the notice. If city council suspends or revokes the sale of alcoholic beverages from a property, the city shall cause the subject property to be posted with a notice of such suspension or revocation.



TAMPA POLICE REQUIREMENTS FOR SECURITY AT ALCOHOL ESTABLISHMENTS

B) Officer Safety / Staffing Requirements

- 1) While efforts will be made to comply with the assignment duties as defined by business representatives, the Tampa Police Department maintains exclusive rights in determining the number of officers required in order to maintain a safe environment for all and dictate placement /duties of officers working a particular assignment.
- 2) Normally, a minimum of two (2) officers will be scheduled to work at an alcohol establishment for officer safety reasons. However, a bureau or division commander may waive this requirement if conditions warrant only one officer. Officers are required to maintain contact with other officers assigned to the detail.
- 3) On occasion, specific staffing levels and officer placement are influenced by City of Tampa Ordinances Code and unique circumstances identified by the City of Tampa Council regarding zoning approval for individual establishments / land parcels.
- 4) Officers are prohibited from working assignments within the confines of the alcohol establishment. Officers shall remain on the outside of the building, patrolling the exterior areas of the business and parking lots.

C. Officer Duties

- 1) Officers working extra duty assignments at alcohol establishments are responsible for generating reports associated with police activity at the location.
- 2) Officers shall enter the establishment only in response to an incident requiring official police action. Once concluded, they will return outside.
- 3) Under no circumstances will officers assume a role, or participate with business representatives, in any activity that is engaged in determining the age of patrons desiring entry into the establishment. Officers shall not “card” (check identification cards or driver’s licenses) any customers / patrons of any business. Officers do have the responsibility to investigate situations, identified by the business representatives wherein individuals proffer counterfeit or false identification.
- 4) Officers shall not work as a “bouncer” and prohibited from collecting or handling money for the business.
- 5) Officers will not conduct any activity associate with the business while working on-duty for the department.
- 6) Officers shall not work in plain clothes, are not permitted to wear any type of department “Police” or “RAID” jackets, and will never wear any clothing other than the Tampa Police department uniforms.



UTAH STATE LAW REQUIRING ID SCANNERS

R81-5-18. Age Verification - Dining and Social Clubs.

(1) Authority. 32B-1-402, -405, and -407.

(2) Purpose.

(a) 32B-1-407 requires dining and social club licensees to verify proof of age of persons who appear to be 35 years of age or younger either by an electronic age verification device, or an acceptable alternate process established by commission rule.

(b) This rule:

(i) establishes the minimum technology specifications of electronic age verification devices; and

(ii) establishes the procedures for recording identification that cannot be electronically verified; and

(iii) establishes the security measures that must be used by the club licensee to ensure that information obtained is used only to verify proof of age and is not disclosed to others except to the extent authorized by Title 32B.

(3) Application of Rule.

(a) An electronic age verification device:

(i) shall contain:

(A) the technology of a magnetic stripe card reader;

(B) the technology of a two dimensional ("2d") stack symbology card reader; or

(C) an alternate technology capable of electronically verifying the proof of age;

(ii) shall be capable of reading:

(A) a valid state issued driver's license;

(B) a valid state issued identification card;

(C) a valid military identification card; or

(D) a valid passport

(iii) shall have a screen that displays no more than:

(A) the individual's name;

(B) the individual's age;

(C) the number assigned to the individual's proof of age by the issuing authority;



UTAH STATE LAW REQUIRING ID SCANNERS

(D) the individual's the birth date;

(E) the individual's gender; and

(F) the status and expiration date of the individual's proof of age; and

(iv) shall have the capability of electronically storing the following information for seven days (168 hours):

(A) the individual's name;

(B) the individual's date of birth;

(C) the individual's age;

(D) the expiration date of the proof of age identification card;

(E) the individual's gender; and

(F) the time and date the proof of age was scanned.

(b) An alternative method of verifying an individual's proof of age when proof of age cannot be scanned electronically:

(i) shall include a record or log of the information obtained from the individual's proof of age including the following information:

(A) the type of proof of age identification document presented;

(B) the number assigned to the individual's proof of age document by the issuing authority;

(C) the expiration date of the proof of age identification document;

(D) the date the proof of age identification document was presented;

(E) the individual's name; and

(F) the individual's date of birth.

(c) Any data collected either electronically or otherwise:

(i) may be used by the licensee, and employees or agents of the licensee, solely for the purpose of verifying an individual's proof of age;

(ii) may be acquired by law enforcement, or other investigative agencies for any purpose under Sections 32B-6-406 - 407;



UTAH STATE LAW REQUIRING ID SCANNERS

- (iii) may not be retained by the licensee in a data base for mailing, advertising, or promotional activity;
- (iv) may not be retained to acquire personal information to make inappropriate personal contact with the individual; and
- (v) shall be retained for a period of seven days from the date on which it was acquired, after which it must be deleted.
- (d) Any person who still questions the age of the individual after being presented with proof of age, shall require the individual to sign a statement of age form as provided under 32B-1-405.



City of Naperville Ordinance

• **3-22-1: - SALES TO PERSONS OF NONAGE AND HABITUAL DRUNKARDS, MENTAL INCOMPETENTS AND INTOXICATED PERSONS:**

1. No licensee or officer, associate, member, representative, agent or employee of a liquor license shall sell, give or deliver *alcoholic* liquor to any person under the age of twenty-one (21) years, or to any intoxicated person, or to any person known to be a habitual drunkard, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining *alcoholic* liquor, shall sell, give or deliver such *alcoholic* liquor to another person under the age of twenty-one (21) years except in the performance of a religious ceremony or service. It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his or her age for the purpose of purchasing or obtaining *alcoholic* liquor in any place in the City where *alcoholic* liquor is sold.

(Ord. 92-144, 8-4-1992)

2. In every place in the City where *alcoholic* liquor is sold, there shall be displayed at all times in a prominent place a printed card which shall be supplied by the City clerk and which shall read substantially as follows:

*WARNING TO PERSONS
UNDER THE AGE OF 21 YEARS*

You are subject to a fine up to five hundred dollars (\$500.00) under the ordinances of the City of Naperville if you purchase or attempt to purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.