

EXHIBIT "2"

Sec. 5-4. - Closing hours specified; special permit; fees.

(a)

No person licensed under the provisions of the state beverage law, or any employee of such person, shall sell, offer for sale, or deliver, or serve upon the premises of such vendor, any liquors, beer or wine, regardless of alcoholic content, on any weekday or Saturday between the hours of 2:00 a.m. and 7:00 a.m., or on Sundays between the hours of 2:00 a.m. and 1:00 p.m.; however, holders of nightclub licenses may serve, offer for sale and sell, upon the premises of such license holder, liquors, beer and wine, except between the hours of 6:00 a.m. and 7:00 a.m. on weekdays or Saturdays and 6:00 a.m. and 1:00 p.m. on Sundays. A holder of a 6:00 a.m. nightclub license may file a written request with the city manager to serve, offer for sale and sell, upon the premises of such license holder, liquor, beer and wine, between the hours of 6:00 a.m. and 7:00 a.m. on January 1. In deciding whether to grant the request, the city manager shall consider the specific criteria contained in [section 5-9\(a\)\(1—3\)](#). If the city manager denies the request, the holder of the 6:00 a.m. nightclub license may appeal the city manager's decision to the city commission. In deciding whether to uphold, modify or reverse the city manager's decision, the city commission shall consider the specific criteria contained in [section 5-9\(a\)\(1—3\)](#). The holder of the 6:00 a.m. nightclub license may seek review of the city commission's decision as provided by law.

(b)

Application for a special permit to commence sales of alcoholic beverages for consumption on the premises at 6:00 a.m. on Saturday and/or Sunday, or for sales off the premises at 7:00 a.m. on Sunday may be made by establishments upon payment of a nonrefundable application fee, on file in the city clerk's office, to defray the costs of issuance, policing and regulation of such licenses. Issuance, renewal and revocation of such special permit shall be based upon the criteria of [section 5-9\(a\)—\(c\)](#) and (e) as to nightclub licenses shall be applicable to this permit issued by the city manager; however, appeals of his decisions shall be to the city commission; and such an application shall not be reviewed by the planning and zoning board.

(c)

Application for a special permit for particular holidays or events may be made by an establishment licensed for 2:00 a.m. sales for extended hours to 4:00 a.m. upon application made at least 30 days prior to the event or holiday and payment of an application fee, which is on file in the city clerk's office.

(Code 1980, § 5-5; Ord. No. 2002-21, § 1, 12-3-2002)

State Law reference— Authority to regulate hours of sale, F.S. §§ 562.14, 562.45(2); closing by mayor in time of riot, F.S. § 562.454; closing during disorders, F.S. § 870.045.

Sec. 5-9. - Nightclub licenses; issuance and renewal.

(a)

A person licensed under the provisions of the state beverage law may file an application with the city for a nightclub license to enable the applicant to serve, offer for sale, and sell upon the applicant's premises, liquor, wine and beer, until the hours of 4:00 a.m. or 6:00 a.m. Upon receipt of an application for a nightclub license, the development services department director shall place the application on the planning and zoning board agenda for a hearing and notify the applicant of the date of such hearing. At the time of the hearing, the planning and zoning board shall recommend to the city commission that the commission grant the license, deny the license, or grant the license subject to certain conditions. Once the planning and zoning board has made its recommendation, the application shall be placed on the city commission agenda, and the city commission shall hear the application after proper notice to the applicant of the date of such hearing. At the time of the hearing, the city commission may grant the license, deny the license, or grant the license subject to specific conditions. The applicant may seek review of the city commission's decision, as provided by law. In considering the application, the planning and zoning board and the city commission shall base their decisions on the following criteria:

(1)

The amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to any spillover effect creating illegal or hazardous parking or parking in adjacent residential areas.

(2)

The amount and degree of law enforcement activities generated by the extra hours of operation, both inside and outside the particular location, with particular reference to noise, vehicular use by patrons, and illegal activity of any kind by employees, patrons or others associated with the establishment, during or within one hour after the extended hours of operation.

(3)

The adverse effects, if any, that the extended hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or exterior lighting, on nearby residential properties.

(b)

The city commission may require, as a condition of the privilege of extended hours of operation, compliance with any reasonable conditions deemed by the commission to be necessary to mitigate or eliminate the adverse effects of that operation. These conditions may include, without being limited to, provision by the owner or operator or the licensee, at his expense, of additional off-street parking, security personnel, and screening and buffering from nearby properties.

(c)

The granting of extended hours of operation, either citywide or to a particular licensee, has been and continues to be a privilege subject to modification or termination by the city commission each year at renewal time; and no person may reasonably rely on the continuation of that privilege.

(d)

All nightclub licenses shall expire at 11:59 p.m. on September 30 of each year unless previously renewed by the city commission. The development services director shall place all current nightclub licenses on the agenda for the first regular city commission meeting in August and shall notify all licensees of that date. The city commission may deny renewal, grant renewal or grant conditional renewal. The specific criteria for city commission consideration in making the decision shall be the same criteria set forth in subsection (a) of this section for the original issuance.

(e)

If prior to renewal time the city manager determines that any licensee has either violated a condition of renewal or is operating in a manner harmful to the public health, safety or welfare, he may place on the city commission agenda the matter of revoking the nightclub license, providing at least ten days written notice to the licensee of the charges against him and the date, time and place of the agenda item, and, after consideration of the matter, and allowing the licensee to be heard, the city commission may revoke, modify or condition the nightclub license. In deciding whether to revoke the license, the city commission shall consider the specific criteria contained in section 5-9(a)(1—3). The licensee may seek review of the city commission's decision as provided by law.

(f)

In addition to the business tax, each licensee shall pay an annual nonrefundable application fee and, in the event of approval, a regulatory fee to defray the costs of policing and regulation. Such fees are on file in the development services department.

(Code 1980, § 5-13; Ord. No. 2002-21, § 1, 12-3-2002)