

CITY COUNCIL MEETING

October 27, 2009

Ordinance - Second Reading

Ordinance 1796. Alcohol Sales Hours

Synopsis: At the Special Meeting held on September 15, Council voted to remove existing restrictions for the sale and consumption of alcohol.

Agenda Item Number:

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ORDINANCE 1796

AN ORDINANCE OF THE CITY OF FORT WALTON BEACH, FLORIDA; PROVIDING FOR AUTHORITY; AMENDING SECTION 9.01.04, HOURS FOR SALES [OF ALCOHOLIC BEVERAGES]; RESOLVING SEVERABILITY; AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA, AS FOLLOWS:

Section 1. Authority & Intent

a. The authority for enactment of this ordinance is pursuant to the powers vested in the City by Home Rule Authority of section 166.021(1), Florida Statutes (2009), the provisions of chapter 562, Florida Statutes (2009), and the City Charter.

b. Section 9.01.04 of the Code of Ordinances was originally adopted by Ordinance 61.4 (1982) and amended by Ordinance 1386 (1999). Neither ordinance adopted definitions for the terms "eating places," "restaurant," or "full meal."

c. Through efforts of enforcement, it has been determined that interpretation of these terms may create ambiguity.

d. Therefore, the City Council finds that it will best promote and protect the businesses and economic development of the City by deleting certain prohibitions against alcohol sales on Sunday. The Council finds that it is in the best interests of the City to delete the terms "eating places" and "restaurant" as they relate to the sale of alcoholic beverages.

Section 2. Amendment of Section 9.01.04, Hours for Sales, of Chapter 9.01, Alcoholic Beverages, of the Code of Ordinances.

Section 9.01.04 Hours of Sales, of Chapter 9.01 of the Code of Ordinances, City of Fort Walton Beach, Florida, is hereby amended as follows:

Sec. 9.01.04. Hours for Sales.

~~No alcoholic beverages may be sold, consumed, served, or permitted to be served or permitted to be consumed in any establishment holding a license under the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, between the hours of 4:00 a.m. and 7:00 a.m. on Monday through Saturday. During any other portion of these days, alcoholic beverages, regardless of the alcoholic content, may be sold, consumed, or served by licensees pursuant to this section. On Sundays, no alcoholic beverages, regardless of the alcoholic~~

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~~content, may be sold, consumed, or served between the hours of 4:00 a.m. and 1:00 p.m., except that in eating places and restaurants that regularly serve full meals, no alcoholic beverages may be sold, consumed, or served between the hours of 4:00 a.m. and 10:00 a.m., and any sales, consumption or serving of alcoholic beverages between 10:01 a.m. and 1:00 p.m. are restricted to those sold in conjunction with the purchase of a full meal.~~

Alcoholic beverages, regardless of the alcoholic content, may be sold, consumed, served, or permitted to be served or permitted to be consumed in any establishment holding an appropriate and valid license under the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, except between the hours of 4:00 a.m. and 7:00 a.m.

Section 3. Severability

Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining provisions.

Section 4. Effective Date

This ordinance shall take effect immediately upon approval by the City Council and signature of the Mayor.

Adopted

Mike Anderson, Mayor

Attest:

Approved for form and legal sufficiency.

Helen Spencer, City Clerk

Toni L. Craig, City Attorney

New language is underlined; deleted language is ~~stricken~~.

Codification Instructions: Sections of this Ordinance to be codified: Section 2
Placement: Amends Volume II, Chapter 9.01 as stated.

CITY OF FORT WALTON BEACH, FLORIDA
MEMORANDUM
Office of the City Manager

DATE: September 23, 2009

TO: Honorable Mayor and Council Members

FROM: Robert T. Mearns, City Manager



SUBJECT: Ordinance 1796 - Alcohol Sales Hours

1. Background

1.1 At the Regular Council Meeting held April 28, 2009 the City Attorney briefed the Council on the issue of Sunday alcohol sales hours. Consensus of Council was that the current ordinance regarding sales of alcohol needed to be reviewed and updated; and for the City Manager to work with the City Attorney to bring an ordinance forward at a future date.

1.2 At a Special Meeting held September 15, 2009, the City Council reviewed three options for ordinance content: one provided for unrestricted sales; and two would allow sales from 10 am to 1 pm in food serving establishments only with certain stipulations. The Council conducted a public meeting on the hours of sale of alcoholic beverages and heard from the public on the issue. The Council voted unanimously to direct staff to draft an ordinance that states:

On Monday through Sunday, alcoholic beverages, regardless of the alcoholic content, may be sold, consumed, served, or permitted to be served or permitted to be consumed in any establishment holding an appropriate and valid license under the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, between the hours of 7:00 a.m. and 4:00 a.m. the next morning.

2. Discussion

2.1 Chapter 562.45(2)(a), F.S. states: "Nothing contained in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business". Based on the statutory language, the City Council may impose any hours of operation it deems appropriate.

2.2 The City Council exercised its home rule rights under the statute and voted to direct staff to draft an ordinance to change the hours of sale.

3. Recommendation

3.1 Staff recommends that the City Council adopt the ordinance as directed and written.

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