

ORDINANCE 06-4662

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA PROHIBITING THE ADMITTANCE OF PERSONS UNDER THE AGE OF TWENTY ONE (21) TO ALCOHOLIC BEVERAGE ESTABLISHMENTS; DEFINING THE TERM ALCOHOLIC BEVERAGE ESTABLISHMENT AS USED HEREIN; PROVIDING THAT ALCOHOLIC BEVERAGE ESTABLISHMENTS SHALL BE REQUIRED TO RETAIN SECURITY PERSONNEL AS MORE FULLY SPECIFIED HEREIN; PROVIDING THAT ALCOHOLIC BEVERAGE ESTABLISHMENT EMPLOYEES SHALL BE REQUIRED TO REPORT INCIDENTS OF PHYSICAL VIOLENCE TO THE CITY OF SARASOTA POLICE DEPARTMENT; PROVIDING FOR THE REPEAL OF SECTION 5-18 OF THE CODE OF THE CITY OF SARASOTA; PROVIDING FOR THE SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, incidents of physical violence in recent years at or in the immediate vicinity of alcoholic beverage establishments in the City, including at least one fatality, have caused the City Commission to re-examine the provisions of the City Code regulating alcoholic beverage establishments in the City; and,

WHEREAS, the City Commission has determined that Section 5-18 of the Code of the City of Sarasota should be updated to better address current conditions in light of recent experiences; and,

WHEREAS, Florida law prohibits selling, serving or allowing the consumption of alcoholic beverages to persons under 21 years of age; and,

WHEREAS, the City Commission has determined that the public health, safety and welfare would be best served by prohibiting the admittance of persons under the age of twenty one (21) into alcoholic beverage establishments; by requiring the provision of security personnel at alcoholic beverage establishments under the circumstances set out herein; and by requiring alcoholic beverage establishments employees to report incidents or threats of physical violence at alcoholic beverage establishments to the Police Department; all as more fully specified herein.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The Code of the City of Sarasota, Chapter 5, Alcoholic Beverages; Section 5-18, "Allowing minors to visit or patronize establishments where alcoholic beverages are sold." is

hereby repealed in its entirety. (Repealed text is shown in strike-through format.)

~~Sec. 5-18. Allowing minors to visit or patronize establishments where alcoholic beverages are sold.~~

~~It shall be unlawful for any person operating a dance hall in the connection with the operation of any place of business where alcoholic beverage is sold to knowingly permit any person under the age of nineteen (19) years to patronize, visit or loiter in any such dance hall or place of business, unless such minor is attended by one (1) or both of his or her parents or by his or her legal guardian.~~

Section 2. The Code of the City of Sarasota, Chapter 5, Alcoholic Beverages; is hereby amended by the addition thereto of a new Section 5-18 to be substituted for the former Section 5-18, repealed as provided in Section 1 above. Said new Section 5-18 shall be entitled "Alcoholic Beverage Establishments" and shall provide as follows:

(New text is shown in underline format.)

Sec. 5-18. Alcoholic Beverage Establishments.

(a) As used in this section, the term "alcoholic beverage establishment" is defined as any licensed premises devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of

any such beverage; and the licensed premises is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue. A place of business constitutes an alcoholic beverage establishment in which the service of food is merely incidental in accordance with this subsection if the licensed premises derives no more than 10 percent of its gross revenue from the sale of food consumed on the licensed premises.

(b) It shall be unlawful for any person under the age of twenty one to enter or remain in any alcoholic beverage establishment; or to be permitted to do so by an owner, manager, employee or independent contractor of any alcoholic beverage establishment; except as hereinafter provided. This restriction shall apply to persons under the age of twenty one who are attending orientation or job training after 5:00 p.m.

(c) The restriction contained in subsection (b) above shall not apply to the following persons:

- (1) Persons employed by or at the alcoholic beverage establishment; or,
- (2) Persons accompanied by a legal guardian; or,
- (3) Persons who are members of the United States military or armed forces who have proper military

identification to show that they are currently on active duty with a branch of the United States military.

(d) The restriction contained in subsection (b) above shall not apply during any period of time in which the alcoholic beverage establishment is not serving or selling alcoholic beverages to the public; provided that before anyone under the age of twenty one is admitted into the establishment, all alcoholic beverages previously served to customers are consumed, removed from customer access or otherwise discarded and the establishment's entire inventory of alcoholic beverages is properly secured from public access. The sale, service or consumption of alcoholic beverages may not resume until all persons under the age of twenty one have vacated the premises.

(e) It shall be a defense to an alleged violation of subsection (b) if a person under the age of twenty one obtained access to a alcoholic beverage establishment by the use of fraudulent identification and the owner, manager, employee or independent contractor of the alcoholic beverage establishment used reasonable efforts to determine and prevent the use of such fraudulent identification. Under these circumstances, only the person who gained access to the alcoholic beverage establishment by presenting fraudulent identification shall be considered in violation of subsection (b) above.

(f) An alcoholic beverage establishment which has been the source of more than two (2) bona fide citizen complaints relating to activities on or near the premises or the conduct of the patrons made to the Sarasota Police Department (SPD) or to another governmental agency which requires that agency to take action in response to the complaint by either conveying a warning or initiating enforcement action against the establishment during the preceding three month period; an alcoholic beverage establishment at which a person has been arrested; or an alcoholic beverage establishment patronized by a person who is arrested, for conduct with a nexus to activity at the alcoholic beverage establishment, within twelve (12) hours after departing the establishment shall, upon written notice from SPD, provide the following security personnel on Fridays and Saturdays and after midnight on Sundays; on Sundays falling on a three day holiday weekend and after midnight on the holiday; and on days prior to any legal holiday and after midnight on the legal holiday:

- (1) A minimum of one (1) exterior security personnel who is either an off duty sworn law enforcement officer or someone who has comparable training regarding the provision of security at alcoholic beverage establishments or similar establishments.
- (2) A minimum of two (2) interior security personnel who are either off duty sworn law enforcement

officers or someone who has comparable training regarding the provision of security at alcoholic beverage establishments or similar establishments.

The City of Sarasota Police Department shall approve a reduction in the number of security personnel required by this subsection upon written request in the event that none of the events described in this subsection above have occurred within the preceding twelve month period.

(g) Any owner, manager, employee or independent contractor of any alcoholic beverage establishment who observes an incident involving physical violence or hears a threat of imminent physical violence which is made in the interior or exterior of the alcoholic beverage establishment premises or on the adjacent right of way shall promptly report such incident to the City of Sarasota Police Department by contacting a police officer if he or she is already on the premises; or by telephoning the Police Department or by any other expedient available means.

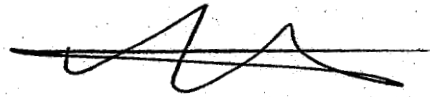
Section 3. Should any section, sentence, clause, part or provision of this ordinance be held or declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part held or declared to be invalid.

Section 4. This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 5th day of September, 2006.

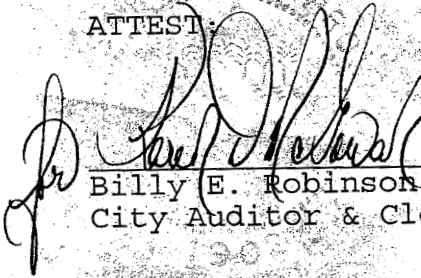
PASSED on second reading and finally adopted this 18th day of September, 2006.

CITY OF SARASOTA, FLORIDA



Fredd "Glossie" Atkins, Mayor

ATTEST:



Billy E. Robinson, CMC
City Auditor & Clerk