

**ECONOMIC DEVELOPMENT
AFTER MIDNIGHT ALCOHOL SALES PERMIT
PROCEDURE**

1. PERMIT APPLICATION

Unless exempt pursuant to section 33.03 of the City Code, each establishment seeking to serve, sell, or allow the consumption of alcoholic beverages on their premises within the Downtown Entertainment Area (DEA) between the hours of midnight and 2:00 a.m. must be permitted by the City of Orlando.

1.1 INFORMATION REQUIRED IN PERMIT APPLICATION

Each establishment seeking to obtain an After Midnight Sales Permit must provide the following information:

1. Name of the establishment.
2. Address of the establishment.
3. Name of the owner(s) of the establishment.
4. Mailing address of the owner(s) of the establishment.
5. The name of the Responsible Person(s) for the establishment.
6. The maximum occupancy of the establishment, as established by the Fire Marshall.
7. The number of on-site parking spots for the establishment.
8. The type of alcohol license issued to the establishment. A copy of the establishment's alcohol license must be included with the application.
9. Address where all notices and invoices related to enforcement are to be served. This must be a U.S. address capable of receiving certified mail (no P.O. boxes).

1.2 PERMIT FEES

Each establishment must pay the permit fee established by resolution (currently \$250) at the time of application. Permitting fees are nonrefundable and customers shall be expressly warned of this during the application process. Permitting fees are collected for processing and are not contingent on a permit being issued. Refunds for permitting fees for any reason can only be authorized by the Director of Economic Development.

2. POLICE PROTECTION REQUIREMENT

Certain establishments are required to hire extra-duty police officers to patrol the DEA. Such requirement will be based primarily on the establishment's maximum occupancy and the type and rank of alcohol license that the establishment is operating under. Additional factors will include the establishment's impact on traffic control, any history of violent incidents that have occurred at the establishment, and other factors reasonably related to public safety.

2.1 LEVELS OF POLICE PROTECTION

Level 0 – 0 extra-duty police officers

Level 1 – 1 extra-duty police officers

Level 2 – 2 extra-duty police officers

Level 3 – 3 extra-duty police officers

2.2 POLICE PROTECTION REQUIREMENT – ESTABLISHMENTS LICENSED TO SELL BEER, WINE, AND LIQUOR

Establishments licensed to sell beer, wine, and liquor will be required to hire extra-duty police officers to patrol the DEA if they have a maximum occupancy of 125 persons or more on the date of application. Establishments licensed to sell beer, wine, and liquor that have a maximum occupancy of 124 persons or less will only be required to hire extra-duty police officers upon a finding by the Chief of Police, or his/her designee that the establishment has had a disparate impact on traffic control, has had a history of violent incidents at the establishment, or as otherwise required for public safety.

If an establishment has had its After Midnight Sales Permit suspended or revoked within the last 12 months, there shall be a rebuttable presumption that public safety requires such establishment to hire additional extra-duty officers. The level of protection required in such cases shall be one level higher than the establishment was previously assigned. If an establishment is already at the highest level (Level 3), then one additional extra-duty officer may be required.

Level 0 – 0-124 persons of maximum occupancy

Level 1 – 125-374 persons of maximum occupancy

Level 2 – 375-624 persons of adjusted maximum occupancy

Level 3 – 625 or more persons of adjusted maximum occupancy

2.3 POLICE PROTECTION REQUIREMENT – ESTABLISHMENTS LICENSED TO SELL BEER AND WINE ONLY

Establishments licensed to sell beer and wine only will not be required to hire extra-duty police officers to patrol the DEA except upon a finding by the Chief of

Police, or his/her designee that the establishment has had a disparate impact on traffic control, has had a history of violent incidents at the establishment, or as otherwise required for public safety.

If an establishment has had its After Midnight Sales Permit suspended or revoked within the last 12 months, there shall be a rebuttable presumption that public safety requires such establishment to hire extra-duty officers. The level of protection required in such cases shall be one level higher than the establishment was previously assigned.

Level 0 – All establishments licensed to sell beer and wine only

2.4 HIRING OF EXTRA-DUTY POLICE OFFICERS

Each establishment required to hire extra-duty officers must register and post the positions through the City of Orlando's RollKall system. Each position will be posted at the then current rate for the Orlando Police Department's Downtown Detail. Invoices will be sent to each establishment from the City to the address provided by the establishment for such invoices. Payment is due 30 days from the date of the invoice. Failure to pay the invoice within 60 days shall be deemed a violation of the terms of the Permit and will subject the Permit to suspension or revocation.

The extra-duty police officers hired will patrol the entire DEA or portions thereof as assigned by the Chief of Police, or his or her designee. However, for establishments that furnish three (3) or more officers as part of their permit requirements, one (1) of the officers hired through the Permit Detail will be posted in the immediate vicinity of the establishment. Establishments may choose to hire additional extra-duty police officers through the RollKall system to work at their establishment.

2.5 DATES AND HOURS OF EXTRA-DUTY POLICE OFFICERS

Extra-duty positions as part of the Permit Detail shall start on each weekend night (Friday, Saturday, and Sunday) and, except on New Year's Eve, shall be from 10:30 p.m. until 3:30 a.m. the following day, for a total of five (5) hours. On New Year's Eve, extra-duty positions as part of the Permit Detail shall be from 10:30 p.m. on New Year's Eve until 4:30 a.m. on New Year's Day, for a total of six (6) hours. Establishments are only responsible for providing extra-duty positions for New Year's Eve or other holidays when they fall on a weekend night.

2.6 EFFECT OF UNFILLED POSITIONS

Extra-duty positions that are properly posted and paid within the RollKall system shall be deemed to fulfill the establishment's requirement regardless of whether such position is filled or not. If properly posted positions are not filled, the establishment will not be responsible for payment of the extra-duty officer. Initially, the first unfilled position will be assigned to the establishment required to provide

extra-duty officers with the lowest maximum occupancy. The next unfilled position will then be assigned to the establishment with the second lowest occupancy, and so forth until all unfilled positions have been assigned. This pattern shall continue from one day to the next.

No more than 30 positions will be filled per night. Any extra-duty requirements above 30 positions will be “unfilled” in the same manner as above. If additional establishments are permitted after the initial rotation has begun, those new establishments shall have their positions filled first.

3. WEAPONS DETECTION SYSTEM

Certain establishments are required to use a weapons detection system such as a metal detector to detect the presence of weapons. Such requirement will be based primarily on the establishment's maximum occupancy and the type and rank of alcohol license that the establishment is operating under. Additional factors will include the any history of violent incidents that have occurred at the establishment and other factors reasonably related to public safety.

3.1 ESTABLISHMENTS REQUIRED TO USE WEAPONS DETECTION SYSTEM

Establishments licensed to sell full liquor with a maximum capacity of 50 persons or more will be required to use a weapons detection system.

All other establishments (those only licensed to sell beer and wine or those with a maximum occupancy of 49 persons or less) will only be required to use a weapons detection system upon a finding by the Chief of Police, or his/her designee that the establishment has had a history of violent incidents at the establishment, or as otherwise required for public safety.

If an establishment has had its After Midnight Sales Permit suspended or revoked within the last 12 months and it was not using a weapons detection system, there shall be a rebuttable presumption that public safety requires such establishment to use a weapons detection system.

3.2 STYLE OF WEAPONS DETECTION SYSTEM

Establishments that are required to use a weapons detection system may use either a hand-held or a walk-through weapons detection system.

However, establishments may be required to use a walk-through weapons detection system upon a finding by the Chief of Police, or his/her designee that the establishment has had a history of violent incidents at the establishment, a history of improper use of a hand-held weapons detection system, or as otherwise required for public safety.

3.3 MINIMUM REQUIREMENTS FOR WEAPONS DETECTION SYSTEMS

All weapons detection systems must, at a minimum, be able to detect all commercially available firearms and metal knives that are greater than 4 inches in length.

3.4 LOCATION AND USE OF WEAPONS DETECTION SYSTEM

When an establishment uses a hand-held weapons detection system, they must be used to scan each person at or about the immediate point of ingress into the

establishment. No person may enter any part of the establishment open and accessible to the general public prior to being screened without a security escort. Establishments may set up a secondary weapons detection location further into the establishment for individuals who trigger an “alert” of the weapons detection system.

When an establishment is required to utilize a walk-through weapons detection systems, it must have at least one walk-through weapons detection system at each point of ingress to the establishment’s physical building.

Those establishments that are required to use a walk-through weapons detection system must also employ state-licensed security officers to monitor such weapons detection system. At least one state-licensed security officer shall be required for each point of ingress during any times that weapons detection is required.

Hand-held weapons detection systems may be used only as a secondary screening device when a walk-through weapons detection system is required.

Each establishment required to use any type of weapons detection system must have a written procedure for operating such devices. The procedure shall include how to conduct a check of individuals who trigger an “alert” of the weapons detection system.

3.5 HOURS OF USE OF WEAPONS DETECTION SYSTEM

Establishments that are required to use a weapons detection system must scan all patrons entering the establishment from 10:00 p.m. until closing, seven days a week.

4. IDENTIFICATION SCANNERS

Establishments licensed to sell beer, wine, and liquor will be required to use identification scanners to verify the age of patrons wishing to enter the establishment from 10:00 p.m. until closing, seven days a week.

All other establishments will only be required to use identification scanners upon a finding by the Chief of Police, or his/her designee that the establishment has had a history of underage drinking, or as otherwise required for public safety.

4.1 IDENTIFICATION SCANNER REQUIREMENTS

At minimum, identification scanners used by establishments must be able to:

1. Scan the front and back of government-issued ID cards and passports;
2. Detect any fraudulent IDs, the patron's age, and repeat scans of the same ID; and
3. Communicate with all other ID scanners utilized by the establishment.

4.2 STANDARDS OF ADMISSION - IDENTIFICATION

From 10:00 p.m. to closing, establishments must either refuse entry to anyone under 21 years of age OR establish protocols for the identification of individuals who are under 21 years of age (e.g., wrist banding).

Establishments must refuse entry to any person who sought to enter the establishment using a fraudulent, altered, or duplicate identification.

5. OCCUPANCY LOAD MONITORING

All establishments are required to utilize a system to accurately track the current occupancy from 10:00 p.m. until closing.

A Responsible Person at each establishment must provide the current occupancy level of the establishment to any City official who requests the occupancy as part of their official duties or responsibilities.

6. ISSUANCE OF AFTER MIDNIGHT SALES PERMIT

The Director of Economic Development, or her or his designee, shall be responsible for issuance and administration of the After Midnight Sales Permit. Such permit shall be issued to qualified establishments within 30 days of the date of application.

6.1 AFTER MIDNIGHT SALES PERMIT - INFORMATION

The After Midnight Sales Permit issued by the Economic Development Department shall include, at minimum, the following information:

1. Name of the establishment.
2. Location of the establishment.
3. Maximum occupancy of the establishment.
4. Date of issuance of the After Midnight Sales Permit.
5. Date of expiration of the After Midnight Sales Permit.
6. If, and how many extra-duty police officers are required to be hired by the establishment.
7. If, and what kind of weapons detection system is required. This should include information if the system is a walk-through system or if it is a hand-held system.
8. If, and how many state-licensed security officers are required to be on duty at the establishment between 10:00 p.m. and closing.

6.2 AFTER MIDNIGHT SALES PERMIT DECAL

In addition to the After Midnight Sales Permit, the Economic Development Department shall issue to each permitted establishment one or more decals for the establishment to post on the outside of its establishment within view of each point of ingress.

At minimum, each decal shall state:

1. The name of the establishment.
2. The maximum occupancy of the establishment.
3. The type of weapons detection system required, if any.
4. The number of state-licensed security officers that must be on duty, if any.

Failure of the establishment to properly post the decal is considered a violation of the permit.

7. SUSPENSION AND REVOCATION OF AFTER MIDNIGHT SALES PERMIT

The ability to sell, offer for sale, provide service, or permit to be served or consumed upon the premises of any establishment, any alcoholic beverage between the hours of midnight and 2:00 a.m. within the DEA is a privilege subject to suspension by the City, and no person may reasonably rely on a continuation of that privilege.

7.1 STANDARD FOR SUSPENSION OR REVOCATION

Permit suspensions and revocations shall be enforced as provided in s. 33.03 of the City Code.

If any information provided in the application for the permit, including a renewal permit, is false, deceptive, willfully incorrect, or intentionally misleading then the establishment's permit shall be revoked in accordance with City Code.

7.2 NOTIFICATION OF VIOLATION

The Director of Economic Development, or her or his designee, shall create a process within the City's network where City officials, including but not limited to code enforcement officers, the fire marshal/assistant fire marshals, and police officers can provide notice to the Economic Development Department that a permitted establishment was the site of a violation of any conditions of the After Midnight Alcohol Sales Permit or any section(s) of the Orlando City Code or Florida Statutes listed in s. 33.03 of the City Code. Once any establishment reaches a threshold for suspension or revocation, the Code Enforcement Manager shall be notified, and a hearing shall be scheduled in front of a hearing officer appointed by the City.

The Code Enforcement Manager, or his or her designee, will provide written notice to the permittee of the date, time, and place of such hearing either by personal service upon a Responsible Person at the establishment or by notice mailed by certified mail to the address provided on the permit, no later than seven (7) days before the date of the hearing.

7.3 HEARING OF VIOLATION

The hearing will be held in a suitably sized room with City Hall, or within any other building inside the City of Orlando if it is not possible or practicable to hold the hearing at City Hall.

The hearing will be conducted in accordance with the principles of due process and shall not be subject to the formal rules of evidence. The City bears the burden to prove the basis for suspension or revocation by a preponderance of the evidence.

It is the responsibility of any party wishing to have a transcript of the proceedings to provide a stenographer at their own expense.

7.4 ORDER OF SUSPENSION OR REVOCATION

If, upon the conclusion of the hearing, the hearing officer finds sufficient evidence that the alleged violation(s) constitute a suspension or revocation of the After Midnight Alcohol Sales Permit, then the hearing officer shall issue a written suspension or revocation order, stating on it the date on which the suspension shall cease and after midnight sales may resume, or the date on which the permittee is eligible to reapply for a new permit.

If, upon the conclusion of the hearing, the hearing officer does not find sufficient violations to constitute a suspension or revocation of the After Midnight Sales Permit, then the hearing officer shall issue a written order stating as such. If grounds for suspension or revocation are not found, the establishment may continue to sell and serve alcoholic beverages after midnight as otherwise allowed. Such finding has no effect on any previously issued suspension or revocation.

7.5 MITIGATION OF VIOLATIONS

An establishment may submit to the City a mitigation plan that has cured or is reasonably designed to cure or otherwise prevent future occurrences of the violation(s) which constituted the grounds for suspension either before or after a suspension hearing.

If the mitigation plan is submitted to the City prior to the suspension hearing, then the mitigation plan shall be presented by the establishment to the hearing officer who will decide if such plan did cure or is reasonably designed to cure or otherwise prevent future occurrences of the violation(s) which constituted the grounds for suspension. If so, the City will amend the Permit to include the mitigation plan and the Permit shall not be suspended. If not, then the hearing officer shall reject the mitigation plan and proceed with the suspension hearing.

If the mitigation plan is submitted to the City after the suspension has been issued, then the mitigation plan shall be reviewed by an individual appointed by the City, who may or may not be the same individual as the hearing officer, who will decide if such plan did cure or is reasonably designed to cure or otherwise prevent future occurrences of the violation(s) which constituted the grounds for suspension. If so, the City will amend the Permit to include the mitigation plan and the suspension will be terminated. If not, then the City shall reject the mitigation plan and the suspension shall continue.

For mitigation plans submitted to the City after the suspension has been issued, the City will strive to make a decision on the mitigation plan within no more than five (5) business after receipt of the mitigation plan.

Establishments may submit additional mitigation plans to the City if prior plans were rejected.

7.6 APPEAL OF ORDER OF SUSPENSION OR REVOCATION

Within fourteen (14) days after the issuance of an order of suspension or revocation, the establishment may request a hearing before the Code Enforcement Board to appeal the suspension or revocation in accordance with s. 33.03, City Code.

The request for a hearing shall not stay the effect of a Suspension or Revocation Order.

If, upon the conclusion of the hearing, the Code Enforcement Board finds sufficient evidence to uphold a suspension or revocation of the After Midnight Alcohol Sales Permit, then the Code Enforcement Board Chair, or his or her designee shall issue a written or verbal finding upholding the suspension.

If, upon the conclusion of the hearing, the Code Enforcement Board does not find sufficient evidence to uphold a suspension or revocation of the After Midnight Alcohol Sales Permit, then the Code Enforcement Board Chair, or his or her designee shall issue a written or verbal finding vacating the suspension or revocation. If grounds for suspension or revocation are not found by the Code Enforcement Board, the establishment may immediately resume the sale and service of alcoholic beverages in accordance with such permit, so long as the permit is not otherwise suspended or revoked.

The finding by the Code Enforcement Board is the final action of the City.

8. EFFECT OF SALE OR TRANSFER OF A PERMITTED ESTABLISHMENT

8.1 SALE OR TRANSFER OF A PERMITTED ESTABLISHMENT IN GOOD STANDING

After Midnight Sales Permits are not transferable. However, a 10-day grace permit shall allow the new owner or operator of an establishment to continue to sell alcoholic beverages for 10 days after the sale or transfer of the business if the permitted establishment's permit was not suspended or revoked at the time of the transfer. The full history of violations at the site of the establishment shall continue to be deemed to have occurred at the site of the new establishment unless the old establishment was fully closed to the public for 45 days or more prior to the opening of the new establishment.

8.2 SALE OR TRANSFER OF A PERMITTED ESTABLISHMENT SUBJECT TO SUSPENSION OR REVOCATION

A new owner or operator of an establishment may not obtain an After Midnight Alcohol Sales Permit for the location of a prior establishment if that prior establishment's permit was suspended or revoked at the time of sale or transfer of the establishment until the full duration of the suspension or revocation has lapsed unless the establishment is fully closed to the public for 45 days or more prior to the opening of the new establishment.