

ORDINANCE 3 - 08

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 3, ALCOHOLIC BEVERAGES, SECTION 3-9, PATRONAGE RESTRICTIONS FOR PERSONS UNDER THE AGE OF 21, TO ESTABLISH SUB-SUBSECTION 4 THAT PROVIDES THAT THE RESTRICTIONS DO NOT APPLY TO CERTAIN ALCOHOLIC BEVERAGE ESTABLISHMENTS AND TO SET FORTH THE REQUIREMENTS THEREFOR; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. Chapter 3, Alcoholic Beverages, Section 3.9, Patronage Restrictions for Persons Under the Age of 21, of the City of Cape Coral Code of Code of Ordinances, is hereby amended as follows:

Section 3-9. Patronage Restrictions for Persons Under the Age of 21.

- A. It shall be unlawful for persons under the age of 21 years to enter or remain in any alcoholic beverage establishment, or to be permitted to do so by owners, managers, employees or independent contractors of alcoholic beverage establishments, except as hereinafter provided. This restriction shall not apply to:
1. Persons employed by or at alcoholic beverage establishments and/or persons attending job training or orientation in reference to their employment at the alcoholic beverage establishment;
 2. Persons accompanied by a parent (natural, adoptive, step-parent) or legal guardian;
 3. An alcoholic beverage establishment during any time period in which it is not serving or selling alcoholic beverages to the public, provided that, before anyone under the age of 21 years is admitted into the establishment, all alcoholic beverages previously served to customers are consumed, removed from customer access and 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 21 years have vacated the premises.
 4. An alcoholic beverage establishment that serves full course meals to the public and provided that said establishment has full kitchen facilities and preparation staff. Full course meals shall include a salad or vegetable, entrée and beverage.
- B. The provisions of Section 3-9.A. shall not apply to persons in a bona fide restaurant as defined in Section 3-1.
- C. It shall be a defense to alleged violations of this Section that a person under the age of 21 years obtained access to an alcoholic beverage establishment by use of a fraudulent identification and the business used reasonable efforts to determine and prevent the use of fraudulent identifications. Under these circumstances, only the person who gained access to the alcoholic beverage establishment by presenting fraudulent identification shall be considered in violation of this Section.
- D. Any person under the age of 21 and/or alcoholic beverage establishment that is found to be in violation of this Section shall be issued a citation in conjunction with any other legal action (citation, notice to appear, etc.).

- E. Any violation of this Section shall be presented before the Special Magistrate or County Court Judge. Any hearing before the Special Magistrate shall be conducted pursuant to City of Cape Coral Code Section 2-86.
- F. A final order finding that a person under the age of 21 and/or an alcohol beverage establishment is in violation of this Section and issued by the Special Magistrate or County Court Judge may be appealed to the Circuit Court. A notice of appeal shall be filed with the City Clerk with a copy to the Circuit Court, within thirty (30) days of the execution of the final order to be appealed.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 28th DAY OF January, 2008.


 ERIC P. FEICHTHALER, MAYOR

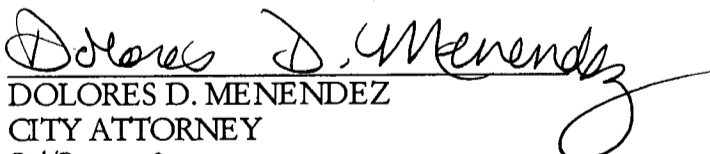
VOTE OF MAYOR AND COUNCILMEMBERS:

FEICHTHALER	<u>excused</u>
BURCH	<u>aye</u>
BRANDT	<u>aye</u>
DEILE	<u>aye</u>
BERTOLINI	<u>aye</u>
GRILL	<u>aye</u>
DAY	<u>aye</u>
DONNELL	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 7th DAY OF February, 2008.


 BONNIE J. POTTER, CITY CLERK

APPROVED AS TO FORM:


 DOLORES D. MENENDEZ
 CITY ATTORNEY
 Ord/Patronage2