

Proposed Ordinance to be placed on the ballot on May 8, 2012:

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**CITY OF OCEAN CITY  
COUNTY OF CAPE MAY**

**ORDINANCE #4-1.4**

Whereas, Ordinance 4-1.4 is currently titled “Alcoholic Beverages Prohibited in Restaurants” and the current Ordinance reads as follows: “ It shall be unlawful for any owner, operator or manager of a restaurant, café or food establishment to permit any person to possess or consume alcoholic beverages in, or upon, their premises.”

Whereas, it has been determined that in the best interests of the business community, patrons and citizens of the City of Ocean City, the current Ordinance of 4-1.4 should be repealed and amended as follows:

**4-1.4 Qualified Retail Dining Establishments that allow patrons to bring their own alcoholic beverages**

**Section 1.**

1. “Qualified Retail Dining Establishment” is defined as a restaurant and/or retail dining room within the City of Ocean City:
  - (a) that is licensed by the Health Department for the sale or service of food and liquid refreshments that are sold or served to the general public.
  - (b) that regularly employs a wait staff of at least one waiter;
  - (c) whose wait staff service is not confined exclusively to a counter;
  - (d) whose tables have table coverings;
  - (e) whose tables, or majority of tables, that are serviced by wait staff are not normally reserved solely for private functions not open to the general public; and
  - (f) whose business is primarily engaged in the sale or service of food and liquid refreshments to the general public.
  
- 2 “Qualified Premises” – that portion of the premises of a Qualified Retail Dining Establishment that is normally open to the public when utilized, and that is not on the public sidewalk, public boardwalk, walkway or right-of-way and the patrons seated in such premises are purchasing and receiving the service of food provided by the Qualified Retail Dining Establishment. Any outdoor seating that is adjacent to any of the above described public right-of-ways shall be a minimum of five feet from said public right of way and shall be separated from the public right-of-way by visual screening that is no less than four feet high and placed in accordance with all local zoning, fire and/or safety ordinances.

**Section 2.** The bringing of unopened containers of wine or malt alcoholic beverages by patrons of Qualified Retail Dining Establishments, and the consumption of wine or malt alcoholic beverages by patrons of the age of twenty-one years or older of the Qualified Retail Dining Establishments, is permitted in such portion of the Qualified Retail Dining Establishment that qualifies as a Qualified Premises.

**Section 3.** No Qualified Retail Dining Establishment shall permit the consumption of alcoholic beverages, other than wine or malt alcoholic beverages.

**Section 4.** No Qualified Retail Dining Establishment shall permit the consumption of alcoholic beverages prior to 2:00 P.M. or after 11:00 P.M.

**Section 5.** No Qualified Retail Dining Establishments shall be permitted on the Boardwalk.

**Section 6.** Nothing in this act shall restrict the right of an owner or operator of a Qualified Retail Dining Establishment from prohibiting the consumption of alcoholic beverages at said Establishment or further restricting the time of day or time of year that the consumption of alcoholic beverages is allowed at said Establishment.

**Section 7.** All ordinances and parts of ordinances, which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 8.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or otherwise legally invalid, such decision shall not affect the remaining portions of this ordinance.

**Section 9.** This ordinance shall take effect immediately upon final passage, approval, and publication as required by law.