

TAB 15



# City of Palmetto Agenda Item

**Meeting Date**

6/21/10

**Presenter:** Mark P. Barnebey

**Department:** City Attorney/City Clerk

**Title:**

**AMENDMENT TO ALCOHOLIC BEVERAGES ORDINANCE TO ALLOW SALES ON SUNDAYS**

**Background**

Historically, the City of Palmetto has prohibited the sale of alcoholic beverages on Sundays within the City Limits. However, the jurisdictions surrounding the City allow the sale of alcoholic beverages on Sunday. The City Commission held an informal poll on its website as to whether the City should recommend the Alcoholic Beverage Ordinance. The results of the poll are attached.

**Discussion**

Based on the consensus of the Commission of June 7, 2010, Ordinance 2010-07 is attached which allows sales on Sunday except between 2:30 a.m. and 6:00 a.m. This is the first reading for Ordinance 2010-07.

**Budgeted Amount:** \$0.00    **Budget Page No(s):**    **Available Amount:** \$0.00    **Expenditure Amount:** \$0.00

**Additional Budgetary Information:**

**Funding Source(s):**    **Sufficient Funds Available:**  Yes  No    **Budget Amendment Required:**  Yes  No    **Source:**

**City Attorney Reviewed:**  Yes  No  N/A    **Advisory Board Recommendation:**  For  Against  N/A    **Consistent With:**  Yes  No  N/A

**Potential Motion/Direction Requested:** Approve the first reading for Ordinance 2010-07 and authorize the Clerk to publish notice for a public hearing for Ordinance 2010-07 for the next available agenda.

**Staff Contact:**

**ORDINANCE 2010 -07**

**AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR AMENDMENT OF THE TIMES ALLOWED FOR THE SELLING OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and,

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, Section 562.14, Florida Statutes enables the regulation of the time for sale of alcoholic beverages by municipal ordinance; and

**WHEREAS**, within the above-referenced grant of powers, the City of Palmetto (the "City") has the authority to regulate establishments which sell alcoholic beverages and provide for times during which such beverage may be sold for the protection of the public health, safety and welfare; and

**WHEREAS**, the City Commission has held numerous workshops on the issue of the sale of alcoholic beverages within the City on Sunday; and

**WHEREAS**, the City has run an informal poll on whether to amend the restrictions on selling alcoholic beverages within the City on Sunday; and

**WHEREAS**, the City Commission desires to amend the times the measurement of such distances consistent for such protected uses; and

**WHEREAS**, consistent with the findings stated above, the City Commission has determined that adoption of this ordinance is in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:**

**Section 1. Findings of Fact.** The above "WHEREAS" clauses are adopted herein as findings of fact.

**Section 2. Amendment Language and Effect on Other Subsection Language.**  
Section 4-1 of the City of Palmetto Code of Ordinances is hereby amended to read as follows:

Sec. 4-1. Hours of sale.

- (a) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place or establishment licensed by the state for the sale of intoxicating beverages, between the hours of 2:30 a.m. and 6:00 a.m.

**Section 3. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other

provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 5. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	June 21, 2010
PUBLICATION DATE	July 2, 2010
SECOND READING	July 19, 2010

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this 19th day of July, 2010.

By: \_\_\_\_\_  
Shirley Groover-Bryant, Mayor

ATTEST:

By: \_\_\_\_\_  
James R. Freeman, City Clerk

## Alcohol Survey Results thru 05/26/10

### Do you think the current prohibition of alcohol sales on Sunday should be changed?

Surveys returned via hard copy from utility bill  
 On-line via the web site

#### Combined Results

Yes	No	Total
533	295	828
295	67	362
828	362	1,190
70%	30%	

### Do you think the City of Palmetto should allow alcohol sales on Sunday?

Surveys returned via hard copy from utility bill  
 On-line via the web site

#### Combined Results

Yes	No	Total
537	293	830
297	70	367
834	363	1,197
70%	30%	

### If the current law were changed to allow Sunday sales of alcohol, what time should sales begin?

Surveys returned via hard copy from utility bill  
 On-line via the web site

#### Combined Results

No Restriction	After 12:00pm	After 1:00pm	Should not be allowed	Total
338	171	53	263	825
197	87	15	60	359
535	258	68	323	1,184
45%	22%	6%	27%	

### Do you think businesses would benefit by allowing Sunday sales of alcohol?

Surveys returned via hard copy from utility bill  
 On-line via the web site

#### Combined Results

Yes	No	Total
577	234	811
301	57	358
878	291	1,169
75%	25%	

### Do you think the residents and general public of Palmetto would be negatively affected if Sunday sales of alcohol were allowed?

Surveys returned via hard copy from utility bill  
 On-line via the web site

#### Combined Results

Yes	No	Total
258	563	821
61	299	360
319	862	1,181
27%	73%	