

TAB 2



City of Palmetto Agenda Item

Meeting Date

6/7/10

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

If the City Commission elects to amend its Ordinance, there appear to be two possible options which are reflected in versions of Exhibit A.

Option 1 allows sales on Sunday except between 2:30 a.m. and 6:00 a.m.

Option 2 allows sales on Sunday except between 2:30 a.m. and 12:00 noon.

Action

Direct Attorney and City Clerk to:

1. Prepare First Reading for Ordinance 2010-07 for revision to Alcoholic Beverages Ordinance to allow sales on Sundays.
2. Prepare First Reading for Ordinance 2010-07 for revision to allow sales after noon on Sunday.
3. No Action

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:

Staff Contact:

ORDINANCE 2010 - _____

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 provided in Exhibit "A," attached hereto and incorporated herein by reference.:

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	
PUBLICATION DATE	
SECOND READING	

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 ____, day of _____, 2010.

By: _____
Shirley Groover-Bryant, Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk

ALCOHOLIC BEVERAGES

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, on weekdays between the hours of 2:30 a.m. and 6:00 a.m.

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(b) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place licensed by the state for the sale of intoxicating beverages between 2:30 a.m. Sunday until 12:00 noon on Sunday. In situations in which properties have establishments located upon them which sell alcoholic beverages on Sunday and the properties are annexed into the city by means of the involuntary annexation statute, the sale of beer and wine for off-premises consumption shall be allowed to continue on only the properties subject to the annexation wherein such sales took place until such time as such use is discontinued for a continuous period of ninety (90) days. In the event that the use is discontinued for a period exceeding ninety (90) days, the property would then be subject to prohibition against Sunday sales of alcoholic beverages as set forth in this paragraph.

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%	