

TAB 11



City of Palmetto Agenda Item

Meeting Date

2/7/11

Presenter: Lorraine Lyn

Department: Public Works

Title:

This item was initiated by Captain Brad Buckley on behalf of Morning Breeze Restaurant located at 2808 10th Street W during a regular City Commission meeting in October, 2010. The proposed change is to Sec. 4.2, Selling, where prohibited which currently allow the sale of beer and wine but not the consumption of beer and wine on premise. This change will allow both the sale and the consumption of beer and wine.

This item was taken to the Planning and Zoning Board under New Business at their meeting on November 18, 2010. The Planning and Zoning Board held public hearings on this item on January 20, 2011 which was continued to January 27, 2011.

At its public hearing on January 27, 2011, the Planning and Zoning Board recommended that the attached proposed change proceed ahead of the overall changes being considered to Chapter 4 for the following reasons:

- 1) The complexity of the changes required to Chapter 4, Alcoholic Beverages involving changes from specific locations to zoning districts will require additional discussion and workshops resulting in a much later timeframe for adoption.
- 2) Public testimony taken at the P & Z hearing indicated that the affected parties and business have been waiting 2 years for the applicable liquor license which would help the restaurant business tremendously.
- 3) It would be unfair to the restaurant business to have to wait till the overall changes are made to Chapter 4.

The attached strike through document shows the exact wording of the changes necessary to allow Morning Breeze Restaurant to consume beer and wine on premises.

Budgeted Amount:	\$0.00	Budget Page No(s):		Available Amount:	\$0.00	Expenditure Amount:	\$0.00
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Additional Budgetary Information:

Funding Source(s):		Sufficient Funds Available:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amendment Required:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Source:	
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City Attorney Reviewed:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Advisory Board Recommendation:	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> N/A	Consistent With:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
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Potential Motion/ Direction Requested: The City Commission shall APPROVE, APPROVE WITH CONDITION(S) or DENY the proposed Code change.

Staff Contact:	Lorraine Lyn	City Planner	723-4580, Ext. 135
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Attachments: Strike through document of changes to Sec. 4-2, Selling where prohibited

ORDINANCE 2011-02

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA; AMENDING SECTION 4-2 OF THE PALMETTO CODE OF ORDINANCES TO AMEND THE LOCATIONS WHERE THE SALE OF ALCOHOLIC BEVERAGES IS PROHIBITED 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 authorizes the regulation of the 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 the locations where such beverage may be sold for the protection of the public health, safety and welfare; and

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 to the Code of Ordinances.

Section 4-2 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 4-2. - Selling, where prohibited.

- (a) No intoxicating beverages shall be sold within three hundred feet (300') of an established church or school. This distance shall be measured by following the shortest route of ordinary pedestrian travel from the main entrance of the place of business wherein the intoxicating beverages are sold to the starting point of the pavement of the nearest public street, then travelling along the public streets to the nearest property line of a church or school.
- (b) No alcoholic beverages shall be sold in any establishment within two hundred (200) feet of Tenth Street, west of Fourteenth Avenue, within the city, except there shall be no prohibition against the sale of beer and wine for consumption on the premises between Twenty-eight Avenue and Thirty-first Avenue.
- (c) It shall be unlawful for any person or the agent or employee of any person to sell or offer for sale, any intoxicating liquor, except beer or wine, at any place in the city except the following:
 - (1) Along Tenth Avenue from Riverside Drive to Fifty Street;
 - (2) Along Riverside Drive from Tenth Avenue to Eighth Avenue;
 - (3) Along Eighth Avenue from Riverside Drive north to the northern city limits;
 - (4) Along Seventeenth Street from Eighth Avenue east to the S.A.L. railroad crossing on Seventeenth Street;
 - (5) Along Tenth Street from Tenth Avenue east to the easternmost city limits;
 - (6) Along Seventh Street east from Sixth Avenue to Highways 19, 41 and 301;

- (7) Along Highways 19 and 41 and 301 south from Tenth Street to the DeSoto Bridge;
- (8) Along Third Avenue from Ninth Street to Tenth Street;
- (9) Along the east two hundred (200) feet of Ninth Street Drive;
- (10) Along Eighth Avenue from Fourth Street to Riverside Drive;
- (11) Along Sixth Street from Eighth Avenue to Ninth Avenue;
- (12) Areas designated as commercial in PUD zoned areas upon compliance with Ordinance No. 196, the conditional use ordinance, which is on file in the city clerk's office;
- (13) Along the entire length of Haben Boulevard including only all commercially zoned property within an area bounded on the north by Highway 301, on the west by Highway 301/41, on the south by the Manatee River, and on the east by the easternmost city limits;
- (14) Along Tenth Street west, but only between the center of the bridge at Government Cut and 28th Avenue West.

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 February 7, 2011

PUBLICATION DATE February 11, 2011

SECOND READING February 28, 2011

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 28th day of February, 2011.

CITY OF PALMETTO, FLORIDA, BY AND THROUGH THE CITY COMMISSION OF THE CITY OF PALMETTO

By: _____
Shirley Groover Bryant, Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk

**STRIKE THROUGH DOCUMENT FOR
SEC. 4-2, SELLING, WHERE PROHIBITED
CHAPTER 4, ALCOHOLIC BEVERAGES**

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 - (14) Along Tenth Street west, but only ~~within a radius of one thousand (1,000) feet from~~ between the center of the bridge at Government Cut and 28th Avenue West.