

TAB 4



City of Palmetto Agenda Item

Meeting Date

6/20/11

Presenter: Jim Freeman

Department: City Clerk

Title:

RESOLUTION NO. 2011-19 To correct a scrivener's error in Ordinance No. 2011-02

On February 18, 2011 Ordinance No. 2011-02 was adopted amending the locations where the City has the authority to regulate establishments which sell alcoholic beverages. Contained in that ordinance was a location that prohibited the sale of alcohol "Along Tenth Avenue from Riverside Drive to Fifty Street". Fifty Street is a scrivener's error that dates back to at least 1996, which should be correctly documented as Fifth Street.

At the June 6, 2011 meeting the proposed correction was presented as an ordinance. Attorney Barnebey recommended that the correction be approved by resolution at this time. He stated the correction can then be adopted by ordinance when the next revision to Chapter 4 Alcoholic Beverages is considered by Commission.

Resolution No. 2011-09 corrects the scrivener's error to correctly read Fifth Street.

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: Motion to adopt Resolution No. 2011-19 correcting a scrivener's error in Ordinance No. 2011-02.

Staff Contact: Jim Freeman

Attachments: Resolution No. 2011-19

RESOLUTION 2011-19

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, TO CORRECT A SCRIVENER'S ERROR IN ORDINANCE 2011-02 AMENDING 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

WHEREAS, Ordinance No. 2011-02, adopted by City Commission on February 28, 2011, contains a scrivener's error in Section 4-2(c)(1) incorrectly documenting Fifth Street as Fifty Street as a location where the sale of alcohol is prohibited, and the scrivener's error dates back to at least 1996; and

WHEREAS, it is in the best interest, safety and welfare of the residents of the City of Palmetto to now correct the scrivener's error.

NOW, THEREFORE, BE IT RESOLVED 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. This Resolution hereby corrects a scrivener's error in Ordinance No. 2011-02 as follows:

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

(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 Fifth Street

PASSED AND DULY ADOPTED BY THE CITY COMMISSION OF THE CITY PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this 20th day of June, 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