

TAB 1



City of Palmetto Agenda Item

Meeting Date

6/18/12

Presenter: Mark P. Barnebey/Jim Freeman

Department: City Attorney/City Clerk

Title: Ordinance 2012-12 – Alcoholic Beverages on City Property

Background:

The City Code does not generally allow the sale or consumption of alcohol in city parks and on city streets. The City Commission has expressed an interest in considering allowing the sale of alcohol at certain City held events.

Discussion:

Ordinance 2012-12 allows the City Commission to permit the sale and consumption of alcoholic beverages at City held meetings, activities and events. The City Commission will have to approve the permissible time and place for the sale and consumption. Sale of alcohol will be limited to being provided by Florida Not-For-Profit corporations. It also provides for indemnification of the City or CRA and the acquisition of insurance by the benefiting not-for-profit organization.

The ordinance also provides for identifying the location where alcoholic beverages may be served and consumed requires the organizations selling the beverages to clean the area designated for the consumption of alcoholic beverages after the event.

The ordinance clarifies that alcoholic beverages may not be consumed on city owned or leased property without consent of the City Commission.

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 of Ordinance 2012-12 and authorize the scheduling of the Public Hearing for the Ordinance for June 25, 2012.

Staff Contact:

Attachments: Draft Ordinance 2012-12

ORDINANCE 2012-12

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR AMENDMENT OF THE REGULATION FOR THE SELLING AND CONSUMPTION 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 entities 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 at least one workshop on the issue of the sale and consumption of alcoholic beverages on City property and streets; and

WHEREAS, the City Commission desires to allow limited sale and consumption of alcoholic beverages on City property and streets; 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.

(a) Section 4-2 of the City of Palmetto Code of Ordinances is hereby amended to add a new Subsection (d) which shall read as follows:

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(d) ~~Notwithstanding other provisions of this Section 4-2, alcoholic beverages may be sold by a Florida not-for-profit corporation on City owned or leased property or upon right-of-way within the City during a City meeting, activity or event, if approved by the City Commission at a Commission meeting. The City Commission shall require such authorized vendor, at a minimum, to:~~

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- (a) (1) ~~indemnify, defend, and hold harmless the City and/or the City Community Redevelopment Agency in a form acceptable to the City Attorney; and~~
- (2) ~~provide a certificate of insurance in a form, amount and terms acceptable to the City (such insurance shall include coverage for both general liability and liquor liability); and~~
- (3) ~~obtain all appropriate licenses and permits; and~~
- (4) ~~clean the area designated by the City Commission for consumption of alcoholic beverages of trash and debris after the city meeting, activity or event.~~

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(b) Subsection (a) of Section 4-3 of the City of Palmetto Code of Ordinances
is hereby amended to read as follows:

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(a) Subject to the limited exception set forth below, it shall be unlawful for
any person to drink or consume any alcoholic beverage containing more
than one (1) percent of alcohol by weight upon any of the following areas
or locations within the City:

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- (1) Public streets and sidewalks;
- (2) Any areas available for use by the public for motor vehicle parking
purposes where such areas adjoin or are adjacent to any
establishment where alcoholic beverages are sold or dispensed;
- (3) The area of public property adjacent to and upon which the police
department is located;
- (4) The area adjacent to and upon which the city hall is located;
- (5) The area adjacent to and upon which the maintenance facility is
located;
- (6) The area adjacent to and upon which the sewage treatment plant is
located;
- (7) The area adjacent to and upon which the cemetery is located; and
- (8) All areas included in property owned or leased by the city;
provided, however,

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notwithstanding the foregoing in this subsection, the City Commission may allow
or permit any person to drink or consume any alcoholic beverage containing more
than one (1) percent of alcohol by weight on any of the properties listed above or
during a City held meeting, activity or event, if approved by the City Commission
at a Commission meeting. The City Commission shall identify the time, date and
places where such consumption shall be permitted, and the City Clerk shall notify
the Chief of Police of such terms.

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

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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 _____, 2012.

By: _____
Shirley Groover-Bryant, Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk