



City of Gainesville Agenda Item Report

File Number: 2023-622

Agenda Date: August 3, 2023

Department: City Attorney

Title: 2023-622 Agenda item - Ordinance Amending the Code of Ordinances Relating to the Sale, Dispensing, Possession and Consumption of Alcohol (B)

Department: Office of the City Attorney

Description: Ordinance No. 2023-622

An ordinance of the City of Gainesville, Florida, amending Sections 4-1 and 4-4 of the City Code of Ordinances relating to the sale, dispensing, possession and consumption of alcohol; amending Section 18-20 of the City Code of Ordinances relating to the dispensing, sale, possession and consumption of alcohol in parks; and amending Section 2-339 of the City Code of Ordinances relating to civil citation for the possession or consumption of an open container of an alcoholic beverage; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

Fiscal Note: None.

Explanation: At the May 5, 2022 City Commission meeting, the Commission discussed potentially reinstating the open container restrictions or alternately scaling back the existing allowances to a limited geographic area and/or with more restricted hours in response to concerns about large late night gatherings. After discussion, the City Commission directed the City Attorney to draft an ordinance reinstating the open container restrictions that existed prior to their suspension and subsequent repeal in 2020 and directed staff to research alternative options for Commission consideration.

Previously, the City Commission adopted Ordinance No. 200250 which temporarily suspended the enforcement as to personal possession and consumption of Sec. 4-4 and Sec. 18-20(16) of the City Code of Ordinances. The City Commission adopted Ordinance No. 210005 that made the allowances for possession and consumption granted by Ordinance No. 200250 to become permanent.

Staff returned to the Commission on June 28, 2022 with a draft repeal ordinance. Staff from the City Manager's office, GPD, Public Works, Sustainable Development, Parks

Recreation and Cultural Affairs, Strategy Planning and Innovation, and the Office of Equity and Inclusion had met several times to discuss various options such as an open container permitting process, specific geographic zones where open container was permitted, and limiting the hours where open container was permitted. Based on these discussions, staff recommended the limited hours option should the commission decide to not fully repeal open container. After discussion, the City Commission deferred any decision and asked staff to reach out to downtown businesses for feedback and to research what laws other similar communities have in place regarding this issue.

On November 2, 2022, as part of a larger internal and stakeholder Downtown retreat, staff extended invitations to all of the downtown businesses to participate in a discussion concerning the open container law. Several downtown owners shared their perspective about the existing open container allowances. Most of the feedback indicated support for keeping the existing open container including existing 2:30 am hours. Several speakers also shared that they understood that the existing hours put stress on GPD's resources. Several residents present at the discussion expressed their desire to fully repeal the open container allowances.

There was also discussion about providing additional GPD enforcement resources and keeping in sync with the downtown priority of "clean and safe" to be furthered by a prospective Downtown Management Organization.

On March 23, 2023, staff returned to the City Commission with the requested information detailing open container laws in other college communities, a full repeal draft ordinance, and a draft ordinance with reduced open container hours. The Commission discussed the information and attempted to pass both draft ordinances but both failed on 4/3 votes. The Commission asked staff to return at a future GPC date with information regarding entertainment districts.

Subsequent to the March 23, 2023 meeting, staff from GPD and the City Manager's office had follow-up discussions with commissioners regarding this issue to attempt to settle on a course of action and find a workable solution. Staff also hosted a meeting with Downtown and Midtown business owners and GPD to discuss reducing hours of open container allowance, prohibiting consumption and possession on City owned parking lots and garages, and prohibiting glass containers.

Based on the foregoing discussions, staff drafted the proposed ordinance amendments which will prohibit the possession and consumption of open containers of alcohol on property owned by the city, including city buildings, city owned parking lots, city owned garages and city parks at any time. The hours for possession and consumption from open non-glass containers of alcohol on city right of ways will be prohibited between the hours of 11:30 p.m. and 8:00 a.m. on Monday through Saturday, and from 8:00 p.m. Sunday through 8:00 a.m. the next day.

Recommendation: The City Commission adopt the proposed ordinance.