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Submitted
by Paula DeLaney

Vendors Licensed to Sell Beer and Malt Beverages near Schools

Position:

The City of Gainesville recommends an amendment to Sec. 563.02, F.S. to allow municipal and county governments to regulate by zoning the location of vendors who are licensed to sell beer and malt beverages for consumption off the premises so that they are not located near or adjacent to schools.

Key Points:

1. A convenience food store is located across the street from Williams Elementary School. From time to time, the customers of the store remain in or near the premises, and occasionally the customers consume alcoholic beverages in the open. School children are placed in danger by the proximity of this store to the school.
2. The city and the county are prohibited by law from regulating by zoning the location of vendors who are licensed to sell beer and malt beverages for consumption off the premises. Sec. 563.02, F.S. provides that vendors who hold beer and malt beverage licenses for off premise sales are not subject to zoning by municipal and county governments. This means these vendors can be located next to a school.
3. The Division of Beverage of the State of Florida acknowledges that state law prohibits the city and the county from imposing any zoning requirements on vendors who are licensed to sell beer and malt beverages for consumption off the premises.
4. These vendors are the only sellers of alcoholic beverages that are not subject to city and county zoning laws. This means that the city and county can prohibit liquor stores near schools, but cannot prohibit stores from selling beer and malt beverages near schools. This disparate treatment places the schools, school children and parents at risk because it allows the sale of beer and malt beverages in proximity to elementary, middle and high schools.
5. Cities and counties should be allowed to reasonably regulate by zoning the location of vendors who sell beer and malt beverages for consumption off the premises in the same manner as they regulate other vendors of alcoholic beverages.