



Legislation Text

File #: 110522., **Version:** 1

ALCOHOLIC BEVERAGE ESTABLISHMENTS SPACING REQUIREMENTS BETWEEN a PLACE OF RELIGIOUS ASSEMBLY AND PUBLIC OR PRIVATE SCHOOL (B)

Ordinance No. 110522, Petition No. PB-11-123TCH

An ordinance of the City of Gainesville, Florida, amending Section 30-105 of the Land Development Code by repealing the spacing requirement between an established place of religious assembly or a public or private school and an alcoholic beverage establishment located in the Central City District zoning district and the Tourist-Oriented Business zoning district; providing directions to the City Manager; providing directions to the codifier; providing a severability clause; and providing an immediate effective date.

The City Commission adopt the proposed ordinance.

STAFF REPORT

Recently a place of religious assembly opened a center in the downtown entertainment district on Main Street. Based on concerns from downtown business owners, staff reviewed the code issues and the impact related to a place of religious assembly locating in downtown near restaurants (eating places) and alcoholic beverage establishments.

The code provision of concern is Section 30-105 which states that no alcoholic beverage establishment may be located within 300 linear feet of an established place of religious assembly. To understand the impact of this provision on the downtown, the Code defines an eating place as, "any use located in any structure or building or portion thereof where the use primarily involves the retail sale, which may include caterers and industrial and institutional food service establishments, of food and beverage which may include alcoholic beverages, for consumption on the premises and where at least 51 percent of the monthly gross revenues derived from such use are attributable to the sale of food and nonalcoholic beverages."

In discussing this issue with legal staff, one possible solution would be to eliminate the spacing requirements for all assembly type uses in the CCD. It is staff's opinion that we can justify eliminating the spacing requirements as it relates to alcoholic beverage establishments and places of religious assembly in the CCD, Gainesville's entertainment district. The justification would be that it is not unreasonable to expect that high density mixed use areas such as an entertainment area would have a diversity of uses located next to each other, and that there are also several places of religious assembly located in the downtown currently within 300 feet of alcoholic beverage establishments. The City Commission heard this issue and directed staff to initiate a petition to make the necessary changes.

The City Plan Board heard the petition and recommended approval 4-0. After the City Plan Board meeting, Planning staff met with the City Attorney's office to discuss any legal issues related to the petition. The City Attorney expressed some concern about the rationale for the petition and whether the CCD zoning should be the only zoning district with the exception to the distance requirement. Staff researched this issue and found that the City's Land Development Code only allows alcoholic beverage establishments as a use by right in CCD and Tourist-Oriented Business (BT) zoning districts. This use is allowed by Special Use Permit (SUP) in other business and mixed use districts. Given the limited number of parcels designated BT zoning and the lack of any alcoholic beverage establishments or places of religious assembly located in BT, staff is recommending that the BT zoning be added to exception to the distance requirement for internal code consistency.

It is staff's opinion that due to the Land Development Code requiring a SUP in the other zoning districts, that it is okay to

have a distance requirement that applies within those districts because those areas are already viewed as different and needing a different level of protection.