



Legislation Text

File #: 211145., **Version:** 2

Open Container Discussion and Direction (B)

The City Commission adopted Ordinance No. 200250 on September 10, 2020, which temporarily suspended the enforcement (as to personal possession and consumption of alcohol) of Sec. 4-4 and Sec. 18-20(16) of the City Code of Ordinances. At the August 19, 2021 meeting, the Commission adopted Ordinance 210005, which made the allowances for possession and consumption permanent between the hours of 7:00am and 2:30am permanent.

Prior to adoption of 200250, open container possession or consumption of alcoholic beverages on public or private property within the City was prohibited. GPD arrest protocol stipulated that the simple possession of an open container would result in the offender being issued a civil citation, which is a civil infraction (non-arrest). If the offender is involved in other criminal behavior and there are multiple charges or the offender flees capture, the Open Container is then deemed an offense for which you can be arrested (municipal ordinance violation -misdemeanor - An excerpt of the protocol (prior to open container repeal) is included in backup.

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. Consistent with the motion, the City Attorney's ordinance is included in the backup. Staff has also concluded that prohibiting or restricting open container possession/consumption within city buildings, such as the City parking garage or within other City owned facilities, remains solely within the City's prerogative. The City can set property specific policies/limits irrespective of the status of the open container ordinance.

The City Commission also directed staff to develop options to allow more limited open container possession and consumption within specific areas, time limits, or a within a permitting framework. Staff from the City Manager's office, GPD, Sustainable Development, Parks Recreation and Cultural Affairs, and Strategy Planning and Innovation along with the City Attorney's office and the Office of Equity and Inclusion met several times to discuss potential approaches.

Staff considered recommending established specific geographic areas where open container would be permitted however; there were various concerns about establishing areas in a spatially equitable manner. Staff also investigated the feasibility of creating a process for permitting temporary areas where open container possession and consumption would be allowed but are not recommending this approach. Staff determined that there is not a clear regulatory path for how individual private properties could be exempted from open container provisions if the Commission decides to restore the restrictions on a citywide basis. The Division of Alcoholic Beverages and Tobacco (ABT) is the state agency charged with regulating alcoholic beverages and it is not clear how an application-based open container permitting process would interact with ABT rules. Additionally, there were concerns about how the City staff would be able to consistently regulate the boundaries of permitted properties or similarly restrict gatherings to occur only within those permitted boundaries.

Ultimately, staff determined that, should the City Commission wish to retain a limited allowance for open container possession and consumption, a simple and consistent approach would be to further restrict the hours when open container is allowed. Staff would recommend rolling back the current 2:30 a.m. limit to 11:30 p.m. to coincide with park closing hours in the City and further limit late night gatherings.

Goal 3: A Great Place to Live & Experience in the City of Gainesville Strategic Plan.

There is no anticipated fiscal impact.

The City Commission discuss the draft ordinance(s), provide direction to staff, and if appropriate, direct the City Attorney's office to schedule the ordinance for first reading.