



City of Apopka CITY COUNCIL STAFF REPORT

Section: PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

Item #: 6.

Meeting Date: July 2, 2025

Department: Administration

SUBJECT:

Ordinance No. 3114 - First Reading Open Container

ACTION ITEM INFORMATION:

REQUEST:

SUMMARY:

Ordinance No. 3114 proposes to establish a standardized permitting process for open container consumption in designated public spaces. The City currently allows the possession and consumption of alcoholic beverages in open containers within public rights-of-way and other public spaces, in certain limited circumstances. The existing regulations lack a clear and consistent method for applying for and obtaining authorization for such open container consumption, creating ambiguity and leading to confusion for both the public and City officials, and hindering effective enforcement of existing regulations. The City finds that establishing an independent and defined permitting process for open container consumption in designated areas promotes responsible enjoyment of public spaces, public safety, and a streamlined enforcement process.

The City aims to foster a dynamic, safe, and economically vibrant downtown by enabling responsible enjoyment of alcoholic beverages during public events and in specified areas, under controlled and clearly outlined conditions. By adopting a well-regulated open container policy, the City can create a safe and enjoyable entertainment experience for residents and visitors alike. The proposed ordinance changes are attached for review and consideration.

FUNDING SOURCE:

N/A

RECOMMENDED MOTION:

The recommended motion is to approve Ordinance No. 3114 at First Reading and hold over for Second Reading and adoption on July 16, 2025.

ATTACHMENTS:

1. Ord. 3114 - Open Container

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AMENDING CHAPTER 6, “ALCOHOLIC BEVERAGES,” OF THE CITY’S CODE OF ORDINANCES; ADDING DEFINITIONS; ESTABLISHING PROCEDURES, REQUIREMENTS, AND STANDARDS FOR OBTAINING AN OPEN CONTAINER PERMIT; SETTING FORTH VENDOR RESPONSIBILITIES; AMENDING ARTICLE 4, “USE REGULATIONS,” OF THE CITY’S LAND DEVELOPMENT CODE TO CLARIFY ALCOHOL SALE RESTRICTIONS FOR MOBILE FOOD VENDORS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, section 166.021(3), F.S., provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of powers set forth in section 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

WHEREAS, Chapter 6, Apopka Code of Ordinances, regulates the sale and consumption of alcoholic beverages; and

WHEREAS, while City currently allows the possession and consumption of alcoholic beverages in open containers within public rights-of-way and other public spaces in certain limited circumstances, the existing regulations lack a clear and consistent method for applying for and obtaining authorization for such open container consumption; and

WHEREAS, the absence of a clear authorization process for open container consumption creates ambiguity, leading to confusion for both the public and City officials, and hindering effective enforcement of existing regulations; and

WHEREAS, the City finds that establishing an independent and defined permitting process for open container consumption in designated areas promotes responsible enjoyment of public spaces, public safety, and a streamlined enforcement process; and

WHEREAS, the City desires to foster a vibrant and economically prosperous downtown area; and

WHEREAS, the City acknowledges the need to balance the enjoyment of alcoholic beverages in public spaces with the importance of public safety, order, and responsible consumption; and

WHEREAS, by adopting a well-regulated open container policy, the City can create a safe and enjoyable entertainment experience for residents and visitors alike; and

47 **WHEREAS**, the City Council finds that a clear and defined permitting process will create
48 a framework for the responsible enjoyment of alcoholic beverages within designated areas, as well
49 as enhance law enforcement's ability to effectively enforce existing regulations concerning open
50 containers within the City; and

51
52 **WHEREAS**, the City Council finds the adoption of this Ordinance to be in the best interest
53 of the health, safety, and welfare of the public.

54
55 **NOW, THEREFORE**, be it ordained by the City Council of the City of Apopka, Florida,
56 as follows:

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58 *[Words with ~~strike through~~ indicate deletions; words with underscore indicate additions; asterisks (* * * *)*
59 *indicate an omission from the existing text which is intended to remain unchanged.]*

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61 **SECTION I:** The foregoing recitals are hereby adopted as the legislative findings of the
62 City Council of the City of Apopka, Florida

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64 **SECTION II:** Chapter 6, *Alcoholic Beverages*, of the Code of Ordinances of the City of
65 Apopka is hereby amended as follows:

66
67 **Sec. 6-2. - Definitions.**

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69 The following words, terms, and phrases, when used in this chapter, shall have the
70 meanings ascribed to them in this section, except where the context clearly indicates a different
71 meaning. As used in this chapter, the terms “beverages,” “beer” and “wine” shall have the
72 meanings assigned to them by the state alcoholic beverage law. If a classification or definition is
73 not clearly contained within this chapter, then the classification and definitions as contained in F.S.
74 chs. 561 through 565, as may be amended from time to time, are hereby adopted as classifications
75 and definitions for this article.

76
77 * * * *

78 *Nonprofit private club* means a fraternal benefit society, whether incorporated or not,
79 conducted solely for the benefit of its members and their beneficiaries and not for profit, operated
80 on a lodge system with ritualistic forms of work, having a representative form of government, and
81 which makes provision for the payment of benefits in accordance with state law.

82
83 *Open or unsealed containers* includes any alcoholic beverage container where the factory seal
84 has been broken notwithstanding the fact that the container may have been recapped or covered,
85 such as an open bottle or can. An alcoholic beverage which has been transferred from the container
86 into which it was placed by the manufacturer for retail sale to the general public into another
87 container, such as a cup, shall be deemed to be an alcoholic beverage in an unsealed container
88 notwithstanding the fact that the new container may be capped.

89
90 *Possession* means actual possession which means that the alcoholic beverage is in the hands
91 of or on the person, or the person was observed relinquishing possession (e.g., setting the container
92 down, handing it to another person, throwing it away). Constructive possession is not sufficient.

94 *Package store* means vendors licensed to sell all alcoholic beverages, but in sealed containers
95 only, and for consumption off the premises. The sealed package must not be broken, and the
96 contents must not be consumed in or on the premises under a package store license.

97
98 * * * *

99 **Sec. 6-3. - Possession or consumption in a public place.**

100
101 (a) *Prohibition and exemptions.*

102
103 * * * *

- 104 (4) The City Council may permit consumption and carrying of alcoholic beverages on
105 streets, sidewalks, alleys, and rights-of-way within the Municipal Corporate Limits of
106 the City of Apopka, Florida, and/or on City-owned property subject to such terms and
107 conditions as the Development Review Committee and/or City Council may impose
108 for the protection of the public health, safety, and welfare through the approval of an
109 Open Container Permit ~~special event permit~~, use agreement, or other official action.
110 When granting alcohol-related authorization pursuant to this chapter, the Development
111 Review Committee and/or City Council shall have the right to restrict the types of
112 alcoholic beverages permitted for consumption and the containers in which they may
113 be lawfully consumed.

114
115 * * * *

- 116 (6) Any individual, corporation, association or organization which has received
117 permission from the City to engage in a public or private event is further authorized to
118 provide alcoholic beverages for consumption at the particular event or program; ~~given~~
119 when such authorization is expressly approved by the City pursuant to the
120 requirements of this section and all other requirements of applicable law through the
121 approval of an Open Container Permit ~~special event permit~~, use agreement, or other
122 official action. The authority to openly consume alcohol is limited to the location
123 specified in the permit for the event. When granting alcohol-related authorization
124 pursuant to this chapter, the Development Review Committee and/or City Council
125 shall have the right to restrict the types of alcoholic beverages permitted for
126 consumption and the containers in which they may be lawfully consumed.

127
128 ~~(b) *Consumption in parking areas, lots, etc., outside licensed premises prohibited; vendor's*~~
129 ~~*responsibilities.*~~

- 130
131 ~~(1) It is unlawful for any vendor or for any agent, servant or employee of such vendor, to~~
132 ~~permit the consumption of any alcoholic beverages in or upon other areas outside of~~
133 ~~the building or room mentioned in the vendor's license certificate as the address~~
134 ~~thereof, when any part of such parking or area is adjacent to the building or premises~~
135 ~~in which the business is operated and when such parking or other area is owned, rented,~~
136 ~~leased, regulated, controlled or provided, directly or indirectly, by such licensed~~
137 ~~vendor or by any agent, servant or employee of such licensed vendor.~~

(2) ~~A licensed vendor shall post and maintain a legible painted or printed sign in at least two separate prominent places on such parking or other area with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open, in letters not less than three inches in height, stating:~~

~~“WARNING: Drinking Alcoholic Beverages on this Lot Prohibited—\$500.00 Fine and/or 60 days in Jail—City Ordinance.”~~

~~Posting of such signs shall constitute prima facie evidence that such vendor is not operating in violation of subsection (b)(1) of this section.~~

(3) ~~If any licensed vendor mentioned in this section is a corporation, then the officers of such corporation shall be regarded as the owners thereof for the purposes of enforcement of this section.~~

(b) Open Container Permit. The procedure for obtaining an Open Container Permit shall be as follows:

(1) Application Contents. Applications shall be filed with the Parks and Recreation Department on a form prescribed by the City, and shall include, at a minimum, the following information and documentation:

- i. The name, address, and contact information of the applicant.
- ii. The specific location(s) where alcoholic beverages would be permitted in open containers, including a site map identifying the proposed open container area(s), including all buildings on the premises, and the location and type of proposed barriers delineating the open container area from other public areas.
- iii. The proposed date(s) and time(s) during which alcoholic beverages would be permitted in open containers on the premises.
- iv. The proposed type(s) of alcoholic beverages permitted.
- v. A public safety plan detailing the number and deployment of security personnel. This plan shall be subject to review and comment by the City’s Chief of Police or the Chief’s designee.
- vi. Any other information deemed necessary by the City to ensure public safety and welfare.

(2) Application Submission. Applications must be submitted at least 60 calendar days prior to the proposed event date. For recurring events by the same applicant, a single application may be submitted covering all proposed event dates within a specified period, subject to any additional limitations, conditions, or review periods deemed necessary to protect the public health, safety, and welfare.

- 185
186 (3) Application Fee. The City may require an application fee for the processing and review
187 of permit requests submitted under this section.
188
- 189 (4) Review and Approval.
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- 191 i. Upon receipt, the application shall be referred to the City’s Chief of Police, or the
192 Chief’s designee, for review and recommendation of any specific permit
193 conditions related to public safety, law enforcement access, and crowd control. The
194 application may also be referred to other relevant City departments for review and
195 comment.
196
- 197 ii. Following any applicable departmental reviews, the Development Review
198 Committee shall evaluate the application and recommend approval, approval with
199 conditions, or denial to the City Council.
200
- 201 A. The Development Review Committee shall consider based on the
202 information presented whether allowing the open consumption of alcoholic
203 beverages:
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- 205 1. Will unreasonably interfere with or detract from the general public’s use
206 of public streets, areas, and/or facilities;
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- 208 2. Is reasonably anticipated to incite violence, crime, or disorderly
209 conduct, based on the adequacy of proposed security measures or other
210 relevant factors; and
211
- 212 3. Will require extraordinary or burdensome expense or police operation
213 by the City.
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- 215 B. The Development Review Committee may also consider any other criteria
216 or make additional findings deemed relevant to ensure the health, safety, and
217 welfare of the community.
218
- 219 iii. The City Council shall make the final determination to approve, approve with
220 conditions, or deny the permit application.
221
- 222 (5) Signage. The permit holder shall be responsible for displaying visible signage at all
223 access points of the open container area informing patrons that the consumption and
224 possession of alcoholic beverages is strictly prohibited beyond the established
225 perimeter, as delineated on the approved site plan.
226
- 227 (6) Permit Revocation. The Parks and Recreation Director, the Chief of Police, or their
228 designee(s), shall have the authority to revoke an Open Container Permit for good cause
229 upon notice to the permittee of such revocation. For purposes of this chapter, the term
230 “good cause” shall include, but not be limited to, the applicant’s failure to comply with

any provision of this Code, any permit condition, or any applicable federal, state, or local law or ordinance.

- (7) Appeal. A permit holder may appeal the revocation of his or her permit by submitting written notice stating the grounds for appeal to the City within ten (10) calendar days of the date of the notice of revocation. The filing of such notice of appeal shall not delay the effectiveness of any revocation. The appeal shall be heard by the City Council at its next regularly scheduled public meeting, or as soon thereafter as practicable, and its decision shall be final. A failure to timely appeal a permit revocation in accordance with this subsection shall constitute a waiver of the right to appeal.

* * * *

~~Sec. 6-5. - Permitting consumption in areas adjacent to vendor's premises; permitting open containers to be taken from premises.~~

- ~~(a) It is unlawful for any vendor, or for any agent, servant or employee of such vendor, to permit the consumption of any alcoholic beverages in or upon any parking or other area outside of the vendor's building or room if such parking or other area is adjacent to the building or premises in which the business licensed is operated, when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such licensed vendor or any agent, servant or employee of such licensed vendor.~~

- ~~(b) A licensed vendor may post and maintain a legible painted or printed sign in at least two separate prominent places on such parking or other area, with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open, in letters not less than three inches in height, stating the following:~~

~~"WARNING: Drinking Alcoholic Beverages on this Lot Prohibited — \$500.00 Fine and/or 60 days in Jail — City Ordinance."~~

~~Posting of such signs shall constitute prima facie evidence that such vendor is not operating in violation of subsection (a) of this section.~~

- ~~(c) If any licensed vendor mentioned in this section is a corporation, then the officers of such corporation shall be regarded as the owners thereof for the purposes of enforcement of this section.~~

- ~~(d) It is unlawful for any vendor, or his agents or employees, licensed to sell beer, wine, liquor or other alcoholic beverages within the city, to knowingly allow any person to take from the licensed premises any opened beer, wine, liquor or other alcoholic beverage container, or to knowingly allow any person to take from the licensed premises any glass or other opened or unsealed container containing an alcoholic beverage or any mixture containing an alcoholic beverage.~~

- ~~(e) Violation of this section shall be prosecuted and punished in the manner provided by general law.~~

* * * *

Sec. 6-5. - Public consumption of alcohol in parking areas; vendor responsibilities.

(a) Consumption in parking areas, lots, etc., outside licensed premises prohibited; signage.

(1) Except as otherwise permitted under sections 6-3(a)(4) through 6-3(a)(6) of this chapter, it is unlawful for any vendor or for any agent, servant or employee of such vendor to permit the consumption of any alcoholic beverages in or upon other areas outside of the building or room mentioned in the vendor's license certificate as the address thereof, when any part of such parking or area is adjacent to the building or premises in which the business is operated and when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such licensed vendor or by any agent, servant, or employee of such licensed vendor.

(2) A licensed vendor shall post and maintain a legible painted or printed sign in at least two separate prominent places on such parking or other area with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open, in letters not less than three inches in height, stating:

“WARNING: Drinking Alcoholic Beverages on this Lot Prohibited—\$500.00 Fine and/or 60 days in Jail—City Ordinance.”

Posting of such signs shall constitute prima facie evidence that such vendor is not operating in violation of subsection (a) of this section.

(b) Consumption in parking areas, lots, etc., adjacent to vendor's premises prohibited; signage.

(1) Except as otherwise permitted under sections 6-3(a)(4) through 6-3(a)(6) of this chapter, it is unlawful for any vendor or for any agent, servant or employee of such vendor to permit the consumption of any alcoholic beverages in or upon any parking or other area outside of the vendor's building or room if such parking or other area is adjacent to the building or premises in which the business licensed is operated, when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such licensed vendor or any agent, servant or employee of such licensed vendor.

(2) A licensed vendor may post and maintain a legible painted or printed sign in at least two separate prominent places on such parking or other area, with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open, in letters not less than three inches in height, stating the following:

“WARNING: Drinking Alcoholic Beverages on this Lot Prohibited—\$500.00 Fine and/or 60 days in Jail—City Ordinance.”

Posting of such signs shall constitute prima facie evidence that such vendor is not operating in violation of subsection (b) of this section.

(c) If any licensed vendor mentioned in this section is a corporation, then the officers of such corporation shall be regarded as the owners thereof for the purposes of enforcement of this section.

(d) Except as otherwise permitted under sections 6-3(a)(4) through 6-3(a)(6) of this chapter, no vendor who is licensed to sell beer, wine, liquor, or other alcoholic beverages within the City, nor their agents or employees, to knowingly allow any person to take from the licensed premises any opened beer, wine, liquor, or other alcoholic beverage container, or to knowingly allow any person to take from the licensed premises any glass or other opened or unsealed container containing an alcoholic beverage or any mixture containing an alcoholic beverage.

(e) Violation of this section shall be prosecuted and punished in the manner provided by general law.

* * * *

SECTION III: Article 4 of the Land Development Code of the City of Apopka is hereby amended as follows:

4.2.3. – Standards Specific to Principal Uses

* * * *

(E)(4)(e) Mobile food vendor.

* * * *

(19) The sale of alcoholic beverages is prohibited unless authorized by a Special Event Permit or Open Container Permit, as applicable.

* * * *

SECTION IV: The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the City of Apopka, as additions or amendments thereto.

SECTION V: Should any word, phrase, sentence, subsection, or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection, or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION VI: All ordinances or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION VII: This Ordinance shall take effect immediately upon its passage and adoption.

PASSED UPON the first reading of the City Council, this _____ day of July 2025.

PASSED UPON the second and final reading of the City Council, this _____ day of July 2025.

Bryan Nelson, Mayor

ATTEST:

Susan M. Bone, City Clerk

DULY ADVERTISED FOR PUBLIC HEARING: _____, 2025.

_____, 2025.