



Type: CRP
Recorded: 06/10/2019 at 12:06:16 PM
Fee Amt: \$0.00 Page 1 of 2
Revenue Tax: \$0.00
Gaston, NC
Susan S. Lockridge Register of Deeds
BK **5046** PG **1195-1196**

RESOLUTION TITLE: TO AMEND CHAPTER 11 – OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I., OF THE GASTON COUNTY CODE OF ORDINANCES TO CREATE SECTION 11.2 TO AUTHORIZE GASTON COUNTY POLICE DEPARTMENT TO ACCESS SBI DATABASES; TO AMEND SECTION 11.1 TO CLARIFY PROHIBITION OF ALCOHOL ON COUNTY PROPERTY EXCEPT AS DESIGNATED IN CHAPTER 12 OF THE CODE OF ORDINANCES

WHEREAS, North Carolina General Statute 18B-904(f) provides that the governing body of a county may designate an official of the County, by name or position, to make recommendations to the State Alcoholic Beverages Control (ABC) Commission on behalf of the County concerning the suitability of a person or of a location for an ABC permit when the proposed location is within the jurisdiction of Gaston County; and,

WHEREAS, the Gaston County Chief of Police, or his designee with a rank of Police Captain or above, is designated as the official authorized to make recommendations on behalf of the governing body, the Gaston County Board of Commissioners, concerning the suitability of a person or location for an ABC permit within the jurisdiction of Gaston County pursuant to G.S. 18B-904(f); and,

WHEREAS, in order to make said recommendations, the Gaston County Police Department desires state access to the State Bureau of Investigations/Division of Criminal History Record Information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the jurisdiction of Gaston County; and,

WHEREAS, the Gaston County Police Department will obtain said criminal history information on each applicant based on identification information regarding the applicant contained in the notice of permit application received from the State Alcoholic Beverages Control (ABC) Commission; and,

WHEREAS, if said criminal history reveals that an applicant has been convicted of any felony, a misdemeanor involving drugs or alcohol, or any offense in violation of Article 26 of Chapter 14 of the North Carolina General Statutes, the Gaston County Police Department will file a written objection to the issuance of the permit, if it is believed that a nexus exists between the conviction and the potential that public safety will be negatively impacted if an ABC permit is issued; and,

WHEREAS, the State Alcoholic Beverages Control (ABC) Commission is the governmental agency responsible for the issuance of all ABC permits; and,

WHEREAS, Section 11-1 of the Gaston County Code of Ordinances states it shall be unlawful for alcoholic beverages to be consumed on the premises or in any buildings owned and occupied by the County; and,

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFrale	BHovis	TKeigher	TPH	K	R	Worley	Vote
2019-136	05/28/2019	CB	RW	A	A	A	A	A	A	A	A	A	U

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Donna S. Buff

Clerk To The Board

A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

To Amend Chapter 11 - Offenses and Miscellaneous Provisions, Article I., of the Gaston County Code of Ordinances to Create Section 11.2 to Authorize Gaston County Police Department to Access SBI Databases; To Amend Section 11.1 to Clarify Prohibition of Alcohol on County Property Except as Designated in Chapter 12 of the Code of Ordinances
Page 2

WHEREAS, Gaston County allows, under some circumstances, alcohol to be consumed in parks during certain events as specified in Chapter 12 of the Gaston County Code of Ordinances; and,

WHEREAS, for clarification, Gaston County desires to modify Section 11-1 of the Gaston County Code of Ordinances to clarify that alcohol is prohibited at county facilities and properties, except as specified in Chapter 12 of the Gaston County Code of Ordinances.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners hereby modifies Chapter 11, Article I., Section 11-1 of the Gaston County Code of Ordinances and creates Section 11-2 of the Gaston County Code of Ordinances as follows:

Section 11-1 of the Gaston County Code of Ordinances is modified as follows:

Sec 11-1. Open containers of alcoholic beverages.

It shall be unlawful for any person to possess open containers of or to consume any malt beverages, or unfortified wine, all as defined in G.S. 18B-101 upon the premises of any buildings owned or occupied by the county, except as specified in Chapter 12 of the Gaston County Code of Ordinances.

Section 11-2 is hereby written to read as follows:

Sec. 11-2. Police authority regarding criminal history information for applicants for Alcoholic Beverage Control (ABC) permits

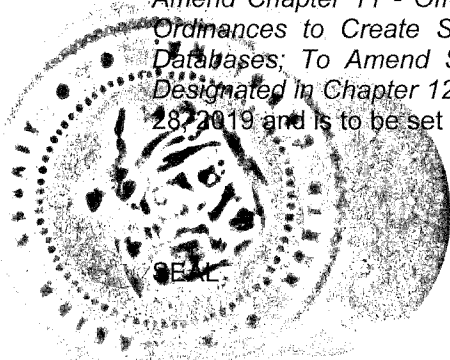
- (1) Authorization. The Gaston County Police Department shall be authorized to seek state access to State Bureau of Investigation/Division of Criminal Investigation Criminal History Record Information to obtain criminal history information on all persons applying for ABC permits for proposed locations within the jurisdiction of Gaston County.
- (2) Conflicts. All ordinances in conflict herewith are hereby repealed.
- (3) Severability. Should any provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

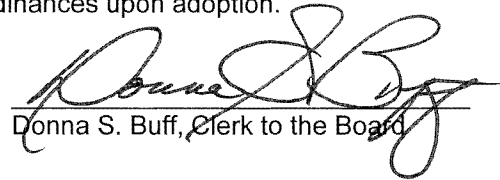
This Ordinance shall take effect and be in force from and after the date of its adoption.

Adopted the 28th day of May, 2019.

Certification

I, Donna S. Buff, Clerk to the Gaston County Board of Commissioners, do hereby certify that the above, as filed with the Clerk to the Board, is a true and accurate copy of the ordinance amendment entitled *To Amend Chapter 11 - Offenses and Miscellaneous Provisions, Article I., of the Gaston County Code of Ordinances to Create Section 11.2 to Authorize Gaston County Police Department to Access SBI Databases; To Amend Section 11.1 to Clarify Prohibition of Alcohol on County Property Except as Designated in Chapter 12 of the Code of Ordinances* as adopted by the Board of Commissioners on May 28, 2019 and is to be set forth in the Gaston County Code of Ordinances upon adoption.




Donna S. Buff, Clerk to the Board



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

County Attorney

Board Action

File #: 19-206

Commissioner Philbeck - County Attorney - To Amend Chapter 11 - Offenses and Miscellaneous Provisions, Article I., of the Gaston County Code of Ordinances to Create Section 11.2 to Authorize Gaston County Police Department to Access SBI Databases; To Amend Section 11.1 to Clarify Prohibition of Alcohol on County Property Except as Designated in Chapter 12 of the Code of Ordinances

STAFF CONTACT

Charles Moore - County Attorney

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

The State advised the Gaston County Police Department that they are not authorized to access Criminal History Record Information related to ABC permitting purposes absent authority granted to the Police Department in an Ordinance. This Ordinance is intended to grant such authority for the Police Department. This will enable businesses to serve or sell alcohol in the County and will also enable the Police Department to do background checks for events in County parks where alcohol will be served at events. This ordinance can be found in proposed Section 11-2 of the Gaston County Code of Ordinances.

Gaston County Staff also wish to clarify Section 11-1 of the Ordinance which prohibits alcohol at County buildings. The addition to Section 11-1 affirms this general prohibition, unless specified under Chapter 12 of the Code of Ordinances. Section 12-4 of the Gaston County Code of Ordinances authorizes alcohol to be served under limited circumstances at park events.

POLICY IMPACT

N/A; Section 11-2 enables the Gaston County Police Department to examine various state databases for ABC permitting matters and Section 11-1 clarifies the general prohibition against alcohol on county property.

ATTACHMENTS

Resolution

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I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFraley	BHovis	TKelgher	TPhilbeck	RWarley	Vote
2019-136	05/28/2019	CB	RW	A	A	A	A	A	A	A	U

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