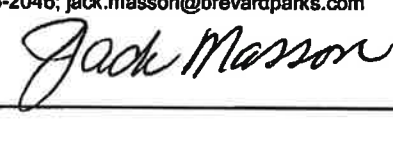


Meeting Date
September 20, 2016



AGENDA	
Section	Consent
Item No.	II.B.3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Legislative Intent and Permission to Advertise Public Hearing, RE: Amending Brevard County Code, Chapter 78, Article III, Use of Parks				
	There is no fiscal impact as a result of this action.				
DEPT/OFFICE:	Community Services Group / Parks and Recreation Department				
Requested Action:					
It is requested the Board of County Commissioners approve legislative intent and authorize advertisement of a public hearing amending Brevard County Code, Chapter 78, Article III, Use of Parks.					
Summary Explanation & Background:					
Staff is recommending an amendment to Brevard County Code, Chapter 78, Article III, Use of Parks. Section 78-76. Definitions, 78-82. Permits, and 78-116. Wildlife and domestic animals.					
• Section 78-76. Definitions – the definition of recreation partner, service animal and weapon have been updated. • Section 78-82. Permits subsection (b)(9) states if the approved activity includes commercial activity and/or is open to the public the applicant must show proof that the applicant or applicant's organization is a non-profit or not for profit organization; subsection (c)(1) states the applicant shall provide and pay for a security plan if the proposed event involves commercial activity and is open to the public. The recommended change clarifies the requirements for providing proof of an entity's non-profit status. • Section 78-116 Wildlife and domestic animals subsection (a) was updated to include the feeding of wildlife as a prohibited activity and subsection (b) was updated to include language from Florida Statutes regarding service animals.					
Clerk to the Board Instructions:					
Exhibits Attached: Notice of Public Hearing, Proposed Ordinance					
Contract /Agreement (If attached): Reviewed by County Attorney Yes ☐ ☒ No ☐ PR ☐					
County Manager	Assistant County Manager, Frank Abbate		Jack Masson, Parks & Recreation Department Director 633-2046; jack.masson@brevardparks.com		
Stockton Whitten	Assistant County Manager, Venetta Valdergo				



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

September 21, 2016

M E M O R A N D U M

TO: Jack Masson, Parks and Recreation Director

RE: Item II.B.3., Legislative Intent and Permission to Advertise Public Hearing for Amending Brevard County Code, Chapter 78, Article III, Use of Parks

The Board of County Commissioners, in regular session on September 20, 2016, approved legislative intent, and granted permission to authorize advertisement of a public hearing amending Brevard County Code, Chapter 78, Article III, Use of Parks.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

✓ Tammy Rowe, Deputy Clerk

/ds

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on September 20, 2016 at 9:00 a.m., in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance:

ORDINANCE 16-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING AND REVISING BREVARD COUNTY CODE, CHAPTER 78, ARTICLE III, USE OF PARKS, SECTION 78-76, DEFINITIONS, RECREATION PARTNER, SERVICE ANIMAL AND WEAPON SECTION 78-82 PERMITS (b)(9) AND (c)(1), AND SECTION 78-116 WILDLIFE AND DOMESTIC ANIMALS (a) and (b); PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; AND PROVIDING FOR AN EFFECTIVE DATE.

All persons for or against said ordinance can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to such hearing or meeting, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the Public Hearing is contacted at least 48 hours prior to the public meeting hearing by any person wishing assistance. The sponsoring department is the Parks and Recreation Department at 633-2046.

A copy of the ordinance may be inspected at the following locations:

www.brevardcounty.us/business

Brevard County Government Center, Building C; Clerk to the Board of County Commissioners; South, Central, North Brevard County Libraries.

By order of the Board of County Commissioners of Brevard County, Florida

ORDINANCE 16-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING AND REVISING BREVARD COUNTY CODE, CHAPTER 78, ARTICLE III, USE OF PARKS, SECTION 78-76, DEFINITIONS, SPECIFICALLY THE DEFINITIONS OF RECREATION PARTNER, SERVICE ANIMAL AND WEAPON; AMENDING AND REVISING SECTION 78-82 PERMITS (b)(9) AND (c)(1), AND SECTION 78-116 WILDLIFE AND DOMESTIC ANIMALS (a) and (b); PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 78, Brevard County Code of Ordinances, sets forth a system of regulations and rules governing the activities within County parks and recreational facilities; and

WHEREAS, the Brevard County Parks and Recreation Department has proposed amendments and modifications to Chapter 78, Brevard County Code of Ordinances, for the purpose of clarifying the regulations and rules contained therein, and for the purpose of updating the regulations and rules contained therein to conform with and reflect changes in applicable law, policies and procedures; and

WHEREAS, the Brevard County Board of County Commissioners desires to modify the existing regulations and rules governing County parks and recreational facilities contained in the Brevard County Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Sec. 78-76, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages shall mean and includes any beer, wine, fortified wine, liquor or alcoholic beverage defined in F.S. ch. 561.01(4).

Animal shall mean any mammal, reptile, amphibian, bird or invertebrate.

Applicant shall mean an individual or organization who sponsors an activity and/or who applies for a permit.

Closing hours shall mean that time period during which a park, recreational facility, and department managed lands is closed to the general public.

Commercial activity shall mean the sale, service or solicitation of any item for a set fee or donation, tangible or intangible, including but not limited to food and/or beverages; the charging of admission; the charging of fees for any service, entertainment or amusement.

Contracted services shall mean an arrangement for purchase of goods or services on a contractual basis.

Co-sponsor shall mean a mutual agreement providing leisure services in utilization of department managed lands or facilities between the parks and recreation director (county) or designee and an individual, group, or organization.

County shall mean the parks and recreation department acting on behalf of the Brevard County Board of County Commissioners.

Department shall mean the parks and recreation department of the county.

Department director shall mean the person appointed by the board of county commissioners to coordinate all park and recreation programs, parks, recreational facilities, and department managed lands.

Department managed lands shall mean a park, reservation, playground, beach, recreation center, refuge, sanctuary, conservation area and environmentally endangered lands or other area owned, leased, managed, operated or maintained by the county and devoted to active or passive recreation.

Designated area shall mean that geographical area which has been established by the department for a specific activity or activities within a park or recreation facility.

Environmentally endangered lands are environmentally unique, irreplaceable lands that are valued ecological resources and at risk of extirpation in the county.

Entertainment equipment shall mean, but is not limited to moon walks, rock climbing walls, pony rides, dunking booths, ball crawls, kiddy trains, inflatables, and similar equipment used for the purpose of entertainment.

Fireworks shall mean and include any combustible or explosive composition or substance or combination of substances or, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.

Law enforcement shall mean any governmental body which exercises jurisdiction over a park or recreational facility.

Material misrepresentation shall mean the falsification of information provided to request and/or obtain the use of a park, recreational facility or department managed lands.

Motor vehicle shall mean any vehicle, which is self-propelled and licensed by the state.

Motorized scooter shall mean any vehicle not having a seat or saddle for the use of the rider designed to travel on not more than three wheels, and not capable of traveling at speeds greater than 30 miles per hour on level ground.

Non-profit organization shall mean a not-for-profit tax exempt corporation, pursuant to F.S. ch. 617.

Not for profit organization shall mean a non profit charitable corporation, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax exempt under the provisions of sections 501(c)(3), (4), (7), (10), or (19) of the Internal Revenue Code of 1954.

Organized athletics shall mean any pre-arranged sport related game, contest, practice, clinic, competition, warm up, training, playoff, event, or activity.

Park includes a park, reservation, playground, beach, recreation center, refuge, sanctuary or other area owned, leased, operated or maintained by the county and devoted to active or passive recreation.

Permit shall mean a written document issued by the department granting permission for a specific activity.

Person shall mean an individual, group, and/or organization.

Public issue speech shall mean all speech and assembly protected by the First Amendment to the United States Constitution, as interpreted by case law; including, but not limited to, religious, political and philosophical speech and assembly as well as charitable solicitation for any purpose described in F.S. § 496.404(20) (2001), as amended.

Recreational facility shall mean any area devoted to active or passive recreation on property owned, leased, managed, operated or maintained by the county.

Recreation partner shall mean a group or organization which has a current recreation partner agreement with the board of county commissioners providing for nonexclusive use of a facility in order for the group or organization to provide recreation programs.

Recreational vehicle shall mean a unit designed as a temporary living quarter for recreational camping or travel use which does not include cars, boats, or conversion vans.

Security violation shall mean any activity, which results in an arrest by a certified law enforcement officer, resulting in the imposition, by a court of law, of a fine, imprisonment, probation and/or other criminal penalty. This term includes only those arrests which occurred during a permitted event and on the property of the park or recreational facility where such event is held.

Service animal shall mean an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks. A service animal is not a pet. The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition.

Special event shall mean an event characterized by one or more of the following: open to the public; anticipated attendance of 201 or more; requiring temporary closure of park roadways; and/or anticipated attendance exceeding facility capacity.

Sponsor shall mean an individual, group, or organization who vouches or is responsible for utilization of department managed lands or facilities. The sponsor may be the parks and recreation department.

Ultra light aircraft shall mean any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.

Vehicle shall mean any watercraft or wheeled conveyance, whether motor powered, animal drawn or self propelled or any trailer in tow of any size, kind or description.

Vendor shall mean a person who provides food, beverage, products and/or services on a contractual basis at a parks and recreation sponsored function.

Weapon shall mean any dirk, knife, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt table knife.

SECTION 2. Sec. 78-82, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

- (a) A permit is required when one or more of the following conditions apply:
 - (1) The applicant desires exclusive use of all of or a portion of a park, recreational facility or department managed lands.
 - (2) The proposed activity includes organized athletics.
 - (3) The proposed activity is open to the public with an anticipated attendance of 50 or more (section 78-105).
 - (4) The proposed activity includes the possession or consumption of alcoholic beverages. The applicant has provided a plan and payment for security where required below.
 - (5) The applicant desires to take off in or land any aircraft, glider or parachute (section 78-106).
 - (6) The applicant desires to post signs (section 78-108).
 - (7) The proposed activity includes amplified music (section 78-110).
 - (8) The applicant desires to ride horseback after dark and/or before daylight (section 78-113).
 - (9) The applicant desires to carry, fire or discharge any weapon or fireworks.
- (b) The department shall issue a permit when all of the following conditions are met:
 - (1) The desired park (or requested portion thereof), recreational facility, or department managed lands has not been reserved for other use at the time requested.
 - (2) The applicant has provided current photo identification and has completed an application for use permit.
 - (3) The applicant has provided fees as established by resolution of the board of county commissioners for the activity.
 - (4) The applicant is in full compliance with all laws, ordinances, rules and regulations, permitting and licensing requirements.
 - (5) The applicant has provided current proof of public and/or liquor liability insurance as required by the board of county commissioners.

- (6) The applicant has provided a plan and payment for security as required in subsection (c).
- (7) The proposed activity or activities will occur in an area designated for such activity or activities.
- (8) The applicant has agreed to indemnify and hold the county harmless as established by resolution by the board of county commissioners.
- (9) If the proposed activity includes commercial activity and/or is open to the public; as defined in section 78-76 and the applicant is a non-profit or a not for profit organization, then the applicant must show proof of the applicant or applicant's organization's ~~is a~~ non-profit or a not for profit status.

(c) Security.

- (1) The applicant shall provide and pay for a security plan for the proposed event if such event involves commercial activity and is open to the public. Such plan shall provide for at least one security personnel, under contract with the permit applicant, on duty at all times for the initial 201 attendees and thereafter one additional security personnel for every 500 additional persons attending the proposed event, with no security personnel working more than one eight-hour shift in any 24-hour period. As an alternative to providing a security plan, the applicant may pay the cost for providing security, in accordance with the above stated guidelines, under any interlocal agreement that the county may have with any law enforcement agency.
 - (2) Security personnel shall include certified law enforcement officers or any bona fide private security company licensed to do business in the state.
 - (3) Where the proposed activity is to be conducted for the sole purpose of public issue speech and does not involve any commercial activity, the applicant shall not be required to pay the expenses associated with security, unless the same event has experienced two or more security violations at a single event, during the two calendar years immediately preceding the application in the county or any other jurisdiction.
- (d) All permits shall be signed by the department director or designee.
- (e) If any proposed recreational or commercial activity may constitute a hazard as determined by department director or designee to any person or property, the department, as a condition of the issuance of a permit, shall require public liability insurance in an amount sufficient to protect such person or property. The amount and requirements of such insurance shall be established pursuant to a resolution adopted by the board of county commissioners. Such activities include but are not limited to the use or placement of entertainment equipment; athletic or sporting events involving physical contact; events that are expected to draw over 200 people which include amplified music; commercial activity; and any event which is open to the public and involves the possession or consumption of alcoholic beverages, the sale of food items and/or beverages, or any commercial activity as defined in this chapter.
- (f) The department shall notify the applicant within five days, excluding weekends and holidays, whether the permit request is granted or denied, and if the permit is denied, the reason for such denial.
- (g) The department director or designee shall have the authority to revoke a permit upon finding a violation of any rule or regulation, or a material misrepresentation.

(h) The applicant may appeal the refusal or revocation of a permit to the county manager within five days after notification of such refusal by filing a written notice. However, the denial of a permit may not be appealed if the basis for denial was:

- (1) That the park, recreation facility, or department managed land was previously reserved;
or
- (2) Due to a prior material misrepresentation of the applicant.

If the department decision is upheld, the appeal may be referred to the board of county commissioners. The board of county commissioners may consider the appeal at a regularly scheduled meeting. If the board does not meet within 30 days the board shall direct the department to issue the permit unless the department demonstrates that the herein permit requirements have not been met. In the event the board affirms the denial of the permit the applicant may immediately request review by a court of competent jurisdiction subject to the rules and laws governing application to such court.

SECTION 3. Sec. 78-116, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

- (a) Unless otherwise permitted by law, no person shall feed, hunt, catch, harm, kill, trap, chase, tease, shoot or throw missiles at any animal nor remove or have in his possession the young of any wild animal or eggs or nest thereof in any park, recreational facility or department managed lands. Hunting may be allowed by permit in designated areas, subject to applicable governmental rules, regulations and agency requirements. No person shall abandon an animal in any park, or recreational facility, or department managed lands.
- (b) No person shall bring an animal into any park, recreational facility, or department managed lands unless it is a service animal or it is an area designated for such purpose. The service animal must be under the control of its handler and must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control by means of voice control, signals, or other effective means. The service animal must be properly vaccinated and licensed. It is required to clean up after your ~~working~~ service animal. Licenses and proof of vaccination must be presented to department personnel or law enforcement upon demand.

SECTION 4. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

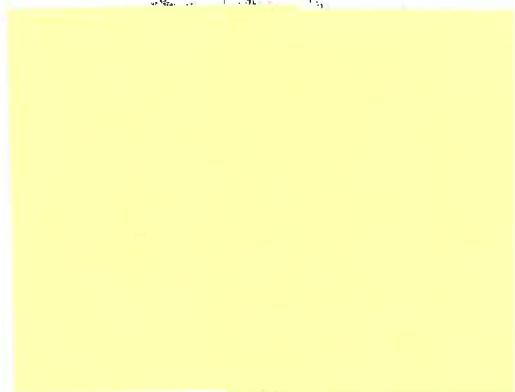
SECTION 6. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

11. B. 3
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SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 8. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE AND ORDERED in Regular Session this 20th day of September 2016.



ORDINANCE 16-____

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through
copy

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING AND REVISING BREVARD COUNTY CODE, CHAPTER 78, ARTICLE III, USE OF PARKS, SECTION 78-76, DEFINITIONS, SPECIFICALLY THE DEFINITIONS OF RECREATION PARTNER, SERVICE ANIMAL AND WEAPON; AMENDING AND REVISING SECTION 78-82 PERMITS (b)(9) AND (c)(1), AND SECTION 78-116 WILDLIFE AND DOMESTIC ANIMALS (a) and (b); PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 78, Brevard County Code of Ordinances, sets forth a system of regulations and rules governing the activities within County parks and recreational facilities; and

WHEREAS, the Brevard County Parks and Recreation Department has proposed amendments and modifications to Chapter 78, Brevard County Code of Ordinances, for the purpose of clarifying the regulations and rules contained therein, and for the purpose of updating the regulations and rules contained therein to conform with and reflect changes in applicable law, policies and procedures; and

WHEREAS, the Brevard County Board of County Commissioners desires to modify the existing regulations and rules governing County parks and recreational facilities contained in the Brevard County Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Additions are underlined. ~~Deletions are stricken through.~~

SECTION 1. Sec. 78-76, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Material misrepresentation shall mean the falsification of information provided to request and/or obtain the use of a park, recreational facility or department managed lands.

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individual, and which has been held to be tax exempt under the provisions of sections 501(c)(3), (4), (7), (10), or (19) of the Internal Revenue Code of 1954.

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Recreational facility shall mean any area devoted to active or passive recreation on property owned, leased, managed, operated or maintained by the county.

Recreation partner shall mean a group or organization which has a current recreation partner agreement with the board of county commissioners providing for nonexclusive use of a facility in order for the group or organization to provide recreation programs.

Recreational vehicle shall mean a unit designed as a temporary living quarter for recreational camping or travel use which does not include cars, boats, or conversion vans.

Security violation shall mean any activity, which results in an arrest by a certified law enforcement officer, resulting in the imposition, by a court of law, of a fine, imprisonment, probation and/or other criminal penalty. This term includes only those arrests which occurred during a permitted event and on the property of the park or recreational facility where such event is held.

Service animal shall mean an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks. A service animal is not a pet. The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition.

Special event shall mean an event characterized by one or more of the following: open to the public; anticipated attendance of 201 or more; requiring temporary closure of park roadways; and/or anticipated attendance exceeding facility capacity.

Sponsor shall mean an individual, group, or organization who vouches or is responsible for utilization of department managed lands or facilities. The sponsor may be the parks and recreation department.

Ultra light aircraft shall mean any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.

Vehicle shall mean any watercraft or wheeled conveyance, whether motor powered, animal drawn or self propelled or any trailer in tow of any size, kind or description.

Vendor shall mean a person who provides food, beverage, products and/or services on a contractual basis at a parks and recreation sponsored function.

Weapon shall mean any dirk, knife, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other any deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt table knife. ~~other than a common pocketknife, or any item, object or instrument wielded with an intent to do or threaten bodily injury of physical harm.~~

SECTION 2. Sec. 78-82, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

- (a) A permit is required when one or more of the following conditions apply:
 - (1) The applicant desires exclusive use of all of or a portion of a park, recreational facility or department managed lands.
 - (2) The proposed activity includes organized athletics.
 - (3) The proposed activity is open to the public with an anticipated attendance of 50 or more (section 78-105).
 - (4) The proposed activity includes the possession or consumption of alcoholic beverages. The applicant has provided a plan and payment for security where required below.
 - (5) The applicant desires to take off in or land any aircraft, glider or parachute (section 78-106).
 - (6) The applicant desires to post signs (section 78-108).
 - (7) The proposed activity includes amplified music (section 78-110).
 - (8) The applicant desires to ride horseback after dark and/or before daylight (section 78-113).
 - (9) The applicant desires to carry, fire or discharge any weapon or fireworks.
- (b) The department shall issue a permit when all of the following conditions are met:
 - (1) The desired park (or requested portion thereof), recreational facility, or department managed lands has not been reserved for other use at the time requested.
 - (2) The applicant has provided current photo identification and has completed an application for use permit.
 - (3) The applicant has provided fees as established by resolution of the board of county commissioners for the activity.

- (4) The applicant is in full compliance with all laws, ordinances, rules and regulations, permitting and licensing requirements.
- (5) The applicant has provided current proof of public and/or liquor liability insurance as required by the board of county commissioners.
- (6) The applicant has provided a plan and payment for security as required in subsection (c).
- (7) The proposed activity or activities will occur in an area designated for such activity or activities.
- (8) The applicant has agreed to indemnify and hold the county harmless as established by resolution by the board of county commissioners.
- (9) If the proposed activity includes commercial activity and/or is open to the public; as defined in section 78-76 and the applicant is a non-profit or a not for profit organization, then the applicant must show proof that the of the applicant or applicant's organization's is a non-profit or a not for profit organization status.

(c) Security.

- (1) The applicant shall provide and pay for a security plan for the proposed event if such event involves commercial activity and is open to the public ~~and may reasonably be expected to draw 50 persons or more to the park or recreational facility.~~ Such plan shall provide for at least one security personnel, under contract with the permit applicant, on duty at all times for the initial 201 attendees and thereafter one additional security personnel for every 500 additional persons attending the proposed event, with no security personnel working more than one eight-hour shift in any 24-hour period. As an alternative to providing a security plan, the applicant may pay the cost for providing security, in accordance with the above stated guidelines, under any interlocal agreement that the county may have with any law enforcement agency.
 - (2) Security personnel shall include certified law enforcement officers or any bona fide private security company licensed to do business in the state.
 - (3) Where the proposed activity is to be conducted for the sole purpose of public issue speech and does not involve any commercial activity, the applicant shall not be required to pay the expenses associated with security, unless the same event has experienced two or more security violations at a single event, during the two calendar years immediately preceding the application in the county or any other jurisdiction.
- (d) All permits shall be signed by the department director or designee.
- (e) If any proposed recreational or commercial activity may constitute a hazard as determined by department director or designee to any person or property, the department, as a condition of the issuance of a permit, shall require public liability insurance in an amount sufficient to protect such person or property. The amount and requirements of such insurance shall be established pursuant to a resolution adopted by the board of county commissioners. Such activities include but are not limited to the use or placement of entertainment equipment; athletic or sporting events involving physical contact; events that are expected to draw over 200 people which include amplified music; commercial activity; and any event which is open to the public and involves the possession or consumption of alcoholic beverages, the sale of food items and/or beverages, or any commercial activity as defined in this chapter.

- (f) The department shall notify the applicant within five days, excluding weekends and holidays, whether the permit request is granted or denied, and if the permit is denied, the reason for such denial.
- (g) The department director or designee shall have the authority to revoke a permit upon finding a violation of any rule or regulation, or a material misrepresentation.
- (h) The applicant may appeal the refusal or revocation of a permit to the county manager within five days after notification of such refusal by filing a written notice. However, the denial of a permit may not be appealed if the basis for denial was:
 - (1) That the park, recreation facility, or department managed land was previously reserved; or
 - (2) Due to a prior material misrepresentation of the applicant.

If the department decision is upheld, the appeal may be referred to the board of county commissioners. The board of county commissioners may consider the appeal at a regularly scheduled meeting. If the board does not meet within 30 days the board shall direct the department to issue the permit unless the department demonstrates that the herein permit requirements have not been met. In the event the board affirms the denial of the permit the applicant may immediately request review by a court of competent jurisdiction subject to the rules and laws governing application to such court.

SECTION 3. Sec. 78-116, Code of Ordinances of Brevard County, Florida is hereby amended as follows:

- (a) Unless otherwise permitted by law, no person shall feed, hunt, catch, harm, kill, trap, chase, tease, shoot or throw missiles at any animal nor remove or have in his possession the young of any wild animal or eggs or nest thereof in any park, recreational facility or department managed lands. Hunting may be allowed by permit in designated areas, subject to applicable governmental rules, regulations and agency requirements. No person shall abandon an animal in any park, or recreational facility, or department managed lands.
- (b) No person shall bring an animal into any park, recreational facility, or department managed lands unless it is a ~~working~~ service animal or it is an area designated for such purpose. ~~Working service animals must be controlled at all times, on a leash no longer than six feet at all times.~~ The service animal must be under the control of its handler and must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control by means of voice control, signals, or other effective means. The service animal must be properly vaccinated and licensed. It is required to clean up after your ~~working~~ service animal. Licenses and proof of vaccination must be presented to department personnel or law enforcement upon demand.

SECTION 4. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 6. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 8. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE AND ORDERED in Regular Session this 20th day of September 2016.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk

By: Jim Barfield, Chairman

As approved by the board on 9/20/16.