



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

9/13/2022

Subject:

Amendment to Brevard County Code Chapter 102, Section 120, "Tourist Development Council - Established; Composition; Terms; Chair"

Fiscal Impact:

N/A

Dept/Office:

County Attorney's Office

Requested Action:

It is requested that the Board adopt the attached ordinance, amending the Brevard County Code Chapter 102, Section 120, "Tourist Development Council - Established; Composition; Terms; Chair."

Summary Explanation and Background:

At the August 30, 2022 Board Meeting, the Commission voted to approve legislative intent and permission to advertise to change Brevard County Code of Ordinance Section 101-120 to bring Brevard County code pertaining to the Tourist Development Council in line with the Florida State Statute. The ordinance amends the number of owners or operators of hotels, motels, recreational vehicle parks, or other tourist accommodations of the county which would be subject to the tax. The current county code provides for three, but the state statute allows for a minimum of three but no more than four. Likewise, the county code provides for 3 members who are not owners or operators but are persons involved in the tourist industry. The state statute permits at least two but not more than three.

Additionally, the county code contained a sentence making the representative from the Board of County Commissioners to be Chair of the TDC in one spot, but in another spot, permitted the TDC to appoint the Chair. The code is amended to conform with current practice, which is that the commissioner appointed to the TDC has the option to be the chair, but with the commissioner's consent, the TDC may elect its own Chair.

Finally, the county code requires all terms to start October 8th. In line with the County's advisory board ordinance, the county code is amended to specify that a replacement's completion of a term shall not count towards the term limit.

Clerk to the Board Instructions:

Provide a certified copy of the ordinance to the County Manager's Office, the County Attorney's Office, and Municode.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

September 19, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-29, which was filed in this office on September 16, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

| Document | Adopted Date | Recorded | Recorded Format |
|-----------------------|--------------|-----------|-----------------|
| Ordinance No. 2022-28 | 9/13/2022 | 9/23/2022 | PDF |
| Ordinance No. 2022-29 | 9/13/2022 | 9/23/2022 | PDF |



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

September 14, 2022

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Kimberly.Powell@brevardclerk.us

M E M O R A N D U M

TO: Morris Richardson, County Attorney

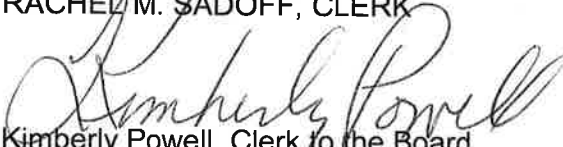
RE: Item H.6., Amendment to Brevard County Code Chapter 102, Section 120, "Tourist Development Council – Established; Composition; Terms; Chair"

The Board of County Commissioners, in regular session on September 13, 2022, adopted Ordinance No. 22-29, amending the Brevard County Code Chapter 102, Section 120, "Tourist Development Council – Established; Composition; Terms; Chair"; amending the number of owners and operators on the Council to conform to Florida Statute; amending the procedures for election of the Chair; amending the terms to clarify replacement status; amending article providing for severability; providing for an area encompassed; and providing an effective date. Enclosed is a certified copy of the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/pp

Encl. (1)

cc: County Manager

ORDINANCE NO. 2022- 29

AN ORDINANCE AMENDING CHAPTER 102, SECTION 120, "TOURIST DEVELOPMENT COUNCIL – ESTABLISHED; COMPOSITION; TERMS; CHAIR", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING THE NUMBER OF OWNERS AND OPERATORS ON THE COUNCIL TO CONFORM TO FLORIDA STATUTE; AMENDING THE PROCEDURES FOR ELECTION OF THE CHAIR; AMENDING THE TERMS TO CLARIFY REPLACEMENT STATUS; AMENDING ARTICLE PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

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

Underline indicates additions.

~~Strike through indicates deletions.~~

SECTION 1. Section 102-120, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 102-120. - Tourist development council—Established; composition; terms; chairman.

- (a) The county tourist development council is hereby established in compliance with the provisions of the act. The council shall be an advisory council to the board of county commissioners on expenditures of revenues received from the levy and imposition of the tourist development tax. The council shall be composed of nine members who shall be appointed by the board. All members of the council shall serve staggered terms of four years, but may be reappointed for additional terms if otherwise eligible. The council shall meet at least once each quarter. The members of the council shall include:
- (1) ~~The chairman~~A member of the Board of County Commissioners, designated by ~~, who,~~ at the option of the board of county commissioners. ~~, shall be either designated by the board of county commissioners or elected by the tourist development council. The chairman shall be appointed or elected annually and may be reelected or reappointed.~~
 - (2) Two members who are elected municipal officers of a municipality within the county, one of whom shall be from the most populous municipality in the county. Within this category, one member shall be appointed for a term of one year and one member shall be appointed for a term of three years.
 - (3) At least three but no more than four members who are owners or operators of hotels, motels, recreational vehicle parks, or other tourist accommodations of the county which would be subject to the tax. Within this category, one member shall be

OFFICIALLY FILED WITH THE SECRETARY OF STATE SEPTEMBER 16, 2022

appointed for a term of two years, and one member shall be appointed for a term of four years.

- (4) At least two but no more than three members who are persons involved in the tourist industry and who have demonstrated an interest in tourist development, but who are not owners or operators of hotels, motels, recreational vehicle parks, or other tourist accommodations of the county and whose activities would not be subject to the tourist tax. Within this category, one member shall be appointed for a term of three years, and one member shall be appointed for a term of four years.
- (b) The ~~chairman~~ of the council shall be the person serving on the council from the board of county commissioners, ~~shall be either designated by the board of county commissioners or with that commissioner's consent, the tourist development council may elect a member of the council to be the chair. The chairman shall be appointed or elected annually and may be reelected or reappointed. and that person annually appointed by the board.~~
- (c) All terms shall begin as of October 8th. A replacement's completion of a term shall not count toward the term limit.
- (d) No member of the TDC shall serve more than two consecutive terms. An individual who serves two consecutive terms on the TDC must wait one term in order to become eligible for re-appointment on the TDC. Upon re-appointment, said individual will again be subject to the two consecutive term limit.
- (e) The executive director, or similar position, of the tourist development office is not permitted to serve on the TDC for two years after the last date of employment in such position.

SECTION 2. 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 3. 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 4. Area Encompassed. In accordance with Section 74-104, this ordinance shall take effect in the unincorporated and incorporated areas of Brevard County, Florida; provided that any provision of this Ordinance in conflict with a municipal ordinance shall not be effective within that municipality to the extent of such conflict.

SECTION 5. 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. Unless specified otherwise, this ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. 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, ORDERED AND ADOPTED, in regular session, this 13 day of Sept. 2022.

Attest:

BY:

Rachel Sadoff, Clerk

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

BY:

Kristine Zonka, Chair

(as approved by the Board on 9/13/22)