



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

8/4/2020

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### **Subject:**

Ordinance Repealing prohibition on alcohol in County parks and recreational facilities except in District 2.

### **Fiscal Impact:**

None

### **Dept/Office:**

County Attorney as directed by District 3 agenda on 7/7/2020

### **Requested Action:**

Approval of proposed ordinance

### **Summary Explanation and Background:**

Section 78-109 currently states, in full, that "no person shall possess or consume alcoholic beverages in any park, recreational facility, or department managed lands except in an area designated and permitted for such purpose." "Park" is defined in Section 78-76 as 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."

The proposed revisions to Section 78-109 would permit alcoholic beverages in parks in Brevard County Commission Districts 1, 3, 4 and 5.

The prohibition of alcoholic beverages in Brevard County Commission District 2 would remain.

The ordinance provides it shall be unlawful for any person to be in possession, throw, cast, lay or deposit glass containers in beach parks or on the beach.

In addition, as written, the proposal provides that in Brevard County Commission Districts 1, 3, 4 and 5, any person consuming alcoholic beverages in a non-beach front park shall do so in a manner as to conceal the alcoholic beverage from the ordinary sight of another person. This suggestion was not discussed by the Board at the last meeting and can be included or excluded depending on the decision of the Board.

### **Clerk to the Board Instructions:**



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

August 7, 2020

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2020-10, which was filed in this office on August 7, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb



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

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August 5, 2020

**M E M O R A N D U M**

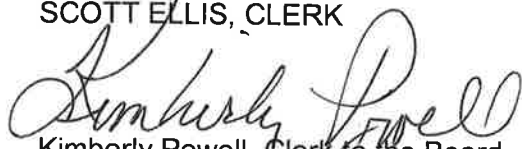
**TO:** Eden Bentley, County Attorney

**RE:** Item H.1., Ordinance Repealing Prohibition on Alcohol in County Parks and Recreational Facilities Except in Districts 1 and 2

The Board of County Commissioners, in regular session on August 4, 2020, adopted Ordinance No. 20-10, repealing prohibition on alcohol in County Parks and Recreational Facilities except in Districts 1 and 2. Enclosed is a copy of the Ordinance.

Sincerely yours,

**BOARD OF COUNTY COMMISSIONERS**  
**SCOTT ELLIS, CLERK**

  
Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

**cc:** Commissioner Pritchett  
Commissioner Lober  
County Manager  
Parks and Recreation

ORDINANCE NO. 2020- 10

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY AMENDING CHAPTER 78. PARKS AND RECREATION. AT ARTICLE III. USE OF PARKS. AT DIVISION 2. PENALTIES, VIOLATIONS AND PROHIBITED CONDUCT. BY REPEALING AND REPLACING SECTION 78-109. ALCOHOLIC BEVERAGES. OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, IN ORDER TO REGULATE ALCOHOLIC BEVERAGES AND GLASS CONTAINERS IN PARKS, RECREATIONAL FACILITIES OR DEPARTMENT MANAGED LANDS WITHIN BREVARD COUNTY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 78-109 of the Brevard County Code of Ordinances prohibits the possession or consumption of alcoholic beverages in parks, recreational facilities, or department-managed land except in areas designated and permitted for such purpose; and

**WHEREAS**, Section 78-109 has created confusion in where alcohol may be lawfully consumed in Brevard County, particularly on beaches; and

**WHEREAS**, Brevard County is home to highly reputable local businesses which sell alcohol products including, but not limited to, Intracoastal Brewing Company, Bugnutt Brewing Company, Charlie and Jake's Brewery Grille, Hell n' Blazes Brewing Company, Dirty Oar Beer Company, Playalinda Brewing Company, Florida Beer Company, Cocoa Beach Brewing Company, and BeachFly Brewing Company; and

**WHEREAS**, the Board of County Commissioners of Brevard County recognizes the risk of injury to residents and visitors of Brevard County from broken glass on its beaches is of legitimate concern; and

**WHEREAS**, municipalities within Brevard County remain free to regulate alcohol on beaches and parks within their jurisdictions, including within Brevard County Parks, Recreational Facilities or Department Managed Lands.

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

**SECTION 1. Recitals.** The foregoing recitals are incorporated by reference into this Ordinance.

**SECTION 2. Chapter 78, Article III, Division 2, Section 78-109.** of the Brevard

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON AUGUST 7, 2020.

County Code of Ordinances is hereby repealed and replaced as follows:

**Section 78.-109. Regulation of alcoholic beverages and glass containers.**

- (a) Within the boundaries of Brevard County Commission Districts 1 and 2, as those boundaries are defined and may be amended, no person shall possess or consume alcoholic beverages in any park, recreational facility, or department managed lands except in an area designated for such purpose.
- (b) Except as provided for in subsection (a) hereinabove, the consumption of alcoholic beverages is permitted in any park, recreational facility or department managed land provided that it shall be unlawful for any person to be in possession of, or throw, cast, lay, or deposit, glass containers in the beach parks or on the beach. Under the provisions of this subsection, the consumption of any alcoholic beverage in a non beachfront park shall be conducted in such a manner that conceals the alcoholic beverage from the ordinary sight of another person.
- (c) The provisions of this section shall apply only in the unincorporated area of Brevard County.

**SECTION 3. Conflict.** All resolutions, ordinances, and agreements, or parts thereof, that may be determined to be in conflict with this Ordinance are hereby repealed.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

**SECTION 5. Effective Date.** This ordinance shall take effect immediately upon adoption. 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 enacted.

**DONE, ORDERED, AND ADOPTED this, in regular session this 4th day of August, 2020**

**BREVARD COUNTY**

**BY:**

**BRYAN ANDREW LOBER, CHAIR**

**(As approved by the Board on August 4, 2020)**

**ATTEST**

**SCOTT ELLIS, CLERK**