



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

4/20/2021

Subject:

Ordinance Amending Section 6-3, Brevard County Code of Ordinances (Hours of Sale)

Fiscal Impact:

None

Dept/Office:

County Attorney as requested by District 3 and approved by the Board on 3/23/2021

Requested Action:

Approval of Proposed Ordinance

Summary Explanation and Background:

Section 6-3, Brevard County Code of Ordinances currently restricts the sale alcoholic beverages, in all areas of unincorporated Brevard County, to the hours between 7:00 a.m. - 2:00 am.

Section 562.14, Florida Statutes, sets out default regulations regarding the time for sale of alcoholic beverages, however it allows counties and municipalities to provide otherwise.

This proposed ordinance will affirmatively allow the sale of alcoholic beverages twenty-four hours a day, seven days a week.

The proposed ordinance will take effect in all of the unincorporated areas of Brevard County, Florida.

Clerk to the Board Instructions:



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April 21, 2021

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item H.2., Ordinance Amending Section 6-3, Brevard County Code of Ordinances for Hours of Sale

The Board of County Commissioners, in regular session on April 20, 2021, continued an ordinance amendment of Section 6-3, Brevard County Code of Ordinances, to the May 4, 2021, Board of County Commissioner meeting.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Each Commissioner

ORDINANCE NO. 21-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING SECTION 6-3, BREVARD COUNTY CODE OF ORDINANCES, "HOURS OF SALE"; AMENDING THE REGULATIONS ON THE HOURS OF SALE OF ALCOHOL IN UNINCORPORATED BREVARD COUNTY, PROVIDING FOR SEVERABILITY, CONFLICTS, AREA ENCOMPASSED, PROVIDING FOR AN EFFECTIVE DATE AND INCLUSION IN CODE.

WHEREAS, Section 6-3, Brevard County Code of Ordinances, "Hours of Sale", promulgated in 1979, allows the selling, dispensing, or serving of alcoholic beverages between the hours of 7:00 a.m. and 2:00 a.m. the following day (with two additional hours on New Year's Eve); and

WHEREAS, Section 562.14, Florida Statutes (2020), regulates the time for sale of alcoholic and intoxicating beverages (allowing for sale between the hours of 7:00 a.m. and 12:00 a.m. midnight the following day), however it allows counties and municipalities to provide otherwise; and

WHEREAS, the Board of County Commissioners now desires to allow less restrictive sales of alcoholic beverages in unincorporated Brevard County and amend Section 6-3, Brevard County Code of Ordinances.

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. Underline indicates additions. ~~Strike through indicates deletions.~~

SECTION 2. Amend.

Section 6-3, Code of Ordinances of Brevard County is hereby amended as follows:

(a) Unless otherwise prohibited, in the unincorporated area of Brevard County, alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the Division of Alcoholic Beverages and Tobacco 24 hours a day, 7 days a week. ~~In all unincorporated areas of the county, no commercial establishment, bottle club, person holding any type of license from the division of beverage, state department of business regulation or membership association in which a fee, cover charge or admission fee is collected, shall be allowed to sell, dispense or serve alcoholic beverages for consumption in or on their licensed~~

~~premises before or after the following hours, which are the only hours of operation at such licensed premises that are permitted under this chapter:~~

~~(1) Every day: beginning at 7:00 a.m. and ending at 2:00 a.m. on the following day.~~

~~—(2) Extended hours for New Year's Eve: beginning at 7:00 a.m. and ending at 4:00 a.m. on January 1.~~

~~(b) The hours of operation set forth in subsection (a) also apply to package stores engaged in the sale of alcoholic beverages for off premises consumption.~~

~~(c) It will be a rebuttable presumption that subsection (a) has been violated if any alcoholic beverage is in possession or control of a patron or customer present inside the licensed premises either before or after the authorized hours of operation set forth in subsection (a).~~

~~(d) Premises closed during prohibited hours. A licensed premises may only remain open for business during the hours authorized in subsection (a).~~

~~(e) Each incident of a sale or service of alcoholic beverages which occurs outside of the above established legal hours shall constitute a separate violation of this section and the person making such sale shall be deemed guilty of an offense and shall be punished as provided in section 1-7.~~

(Code 1979, §§ 2-11—2-13; Ord. No. 13-36, § 1, 10-22-13)

State Law reference— Local regulation of hours of sale, F.S. §§ 562.14, 562.45(2).

SECTION 3. 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 4. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

SECTION 5. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 6. 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 pursuant to law.

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SECTION 7. 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 20 day of APRIL, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk
(SEAL)

Rita Pritchett, Chair

As approved by the Board on 4/20/21

Reviewed for legal form and content:

Assistant County Attorney