



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Miscellaneous

J.2.

7/7/2020

Subject:

Legislative intent and permission to advertise an ordinance which would repeal a section prohibiting alcoholic beverages in parks and institute regulations regarding glass containers on beaches

Fiscal Impact:

Negligible.

Dept/Office:

District 3

Requested Action:

Board consideration and approval of legislative intent and permission to advertise an ordinance repealing Section 78-109 of the Brevard County Code of Ordinances, and instituting regulation on the possession of glass containers on beaches.

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."

This ordinance has had deleterious effects. First, it penalizes behavior that is not intrinsically dangerous in any way. Many law-abiding citizens choose to consume alcoholic beverages reasonably and responsibly. For those who are not responsible, other provisions of law already target truly dangerous behavior, such as driving under the influence. Requiring a permit for the consumption of alcohol, on the other hand, only serves to limit freedom.

Furthermore, this ordinance has created substantial confusion in its application, or lack thereof, to beaches. This ordinance does not generally prohibit alcohol on beaches, but often seems to be interpreted as such. In

fact, at some locations it is unlawful to carry alcoholic beverages in the parking lot of a County beach (because it is an access maintained by the County) but not to possess the beverages on the unmaintained beach itself. Brevard County is fortunate in its vast and beautiful beaches; it would be shameful to continue to limit lawful enjoyment of them through obfuscation of the County code.

That said, because there is often a misperception that alcohol is banned on beaches in the County, it is possible that the repeal of this ordinance will lead to increased consumption of alcohol at these locations. As such, it would be responsible to prohibit glass containers on beaches in order to prevent glass shards from being present. Again, this approach targets the conduct that is actually dangerous as narrowly as possible, rather than an overbroad and arbitrary ban.

It should be noted that this amendment would not preempt those municipalities who choose to prohibit alcoholic beverages on parks or beaches within their jurisdictions.

Clerk to the Board Instructions:



July 8, 2020

M E M O R A N D U M

TO: Commissioner John Tobia, District 3

RE: Item J.2., Legislative Intent and Permission to Advertise an Ordinance to Repeal a Section Prohibiting Alcoholic Beverages in Parks and Institute Regulations Regarding Glass Containers on Beaches

The Board of County Commissioners, in regular session on July 7, 2020, granted legislative intent and permission to advertise an ordinance repealing Section 78-109 of the Brevard County Code of Ordinances prohibiting alcoholic beverages and instituting regulations regarding glass containers on beaches, excluding District 2 and municipalities.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell

Kimberly Powell, Deputy Clerk

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cc: Each Commissioner
County Manager
County Attorney