

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO ALCOHOLIC BEVERAGES; AMENDING
3 SECTIONS 3-1 THROUGH 3-3 OF THE BROWARD COUNTY CODE OF ORDINANCES
4 ("CODE"); REPEALING SECTIONS 3-4, 3-21, AND 3-22 OF THE CODE; AND
5 PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE
6 DATE.

7 (Sponsored by the Board of County Commissioners)
8

9 WHEREAS, Florida law preempts the regulation of many aspects of alcoholic
10 beverage establishments to the state;

11 WHEREAS, counties are permitted to adopt regulations regarding hours of
12 operation and sale, zoning, sanitary conditions, types of entertainment, and conduct at
13 alcoholic beverage establishments; and

14 WHEREAS, the Board of County Commissioners finds it appropriate at this time
15 to amend the Broward County Code of Ordinances regarding alcoholic beverages,

16 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
17 BROWARD COUNTY, FLORIDA:

18 Section 1. Sections 3-1 through 3-3 of the Broward County Code of Ordinances
19 are hereby amended to read as follows:

20 **Sec. 3-1. ~~Opening and closing~~ Definitions; hours of establishments selling**
21 **~~alcoholic beverages~~ operation and sales.**

(a) Definitions. The following words and phrases, when used in this chapter, shall have the following meanings:

Alcoholic beverage means distilled spirits and all beverages containing one-half of 1 percent (0.5%) or more alcohol by volume, determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water.

Establishment means any place of business of a person or entity that has been licensed by the State of Florida for the sale of alcoholic beverages under the provisions of the Beverage Law (Chapters 561-568, Florida Statutes, as amended).

~~(a) (b)~~ Hours of operation and sale. ~~The opening hours of all eEstablishments selling alcoholic beverages and which lie outside of the boundaries of duly incorporated municipalities located within the unincorporated areas of Broward County and which meet all of the following requirements shall be no earlier than 8:00 a.m. on weekdays and Saturdays, and 12:00 noon on Sundays, and the closing hours for such establishments shall be no later than 4:00 a.m. every day:~~ shall not sell or distribute alcoholic beverages, or permit alcoholic beverages to be consumed at the establishment, earlier than 8:00 a.m. on weekdays and Saturdays, or 12:00 noon on Sundays, and must close no later than 2:00 a.m. on weekdays and Saturdays, and no later than 3:00 a.m. on Sundays.

~~(1) Intoxicating beverage is served, sold, given away, or consumed on the premises; and~~

~~(2) Said establishment has a floor area of two thousand (2,000) square feet or more.~~

44 (b) ~~The opening hours of all establishments selling alcoholic beverages and~~
45 ~~which lie outside of the boundaries of duly incorporated municipalities within Broward~~
46 ~~County and which do not meet all of the above-listed requirements shall be no earlier than~~
47 ~~8:00 a.m. on weekdays and Saturdays, and 12:00 noon on Sundays, and the closing~~
48 ~~hours for such establishments shall be no later than 2:00 a.m. on weekdays and~~
49 ~~Saturdays, and no later than 3:00 a.m. on Sundays.~~

50 (c) ~~Violation of this section shall be prosecuted in the same manner as~~
51 ~~misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the~~
52 ~~state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof,~~
53 ~~and upon conviction shall be punished by a fine not to exceed five hundred dollars~~
54 ~~(\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or by both~~
55 ~~such fine and imprisonment~~ Enforcement and penalty. This section may be enforced by
56 code enforcement officers, including municipal code enforcement officers, and any law
57 enforcement agency having jurisdiction over the area where the establishment is located,
58 pursuant to Section 125.69 and Chapter 162, Florida Statutes, or any applicable
59 municipal code enforcement provision. Violations of this section are subject to
60 prosecution and punishment as misdemeanors pursuant to Section 125.69(1), Florida
61 Statutes, as amended.

62 (d) ~~Notwithstanding the foregoing provisions in of Subsections 3-1(a) and (b)~~
63 ~~herein, the opening hours for all~~ County-authorized concessionaires selling alcoholic
64 beverages in the passenger terminal facilities at the Fort Lauderdale-Hollywood
65 International Airport shall be no earlier than 8:00 a.m. each day, including Sunday, and
66 ~~the closing hours for such establishments shall be no later than 4:00 a.m. the following~~

day or on any County-owned or -operated property within the unincorporated areas of
Broward County may only sell alcoholic beverages during the days and hours specified
in their concession agreements with the County.

Sec. 3-2. Unlawful consumption in public places; definition; penalty.

(a) *Definitions Applicability.*

(1) ~~Alcoholic beverage: Any beverage which contains more than one per cent~~
of alcohol by weight.

(2) ~~Establishment: Any place of business which has been licensed by the State~~
of Florida for the sale of alcoholic beverages under the provisions of the
Beverage Law (Chapters 561-568, F.S.).

The provisions of this section shall apply countywide, unless in conflict with an
applicable municipal ordinance, pursuant to Section 11.01 of the Broward County Charter.
Unless otherwise provided, nothing in this section shall be construed to alleviate the
obligation to comply with applicable County or municipal regulations.

(b) *Prohibitions.*

(1) It shall be unlawful for any person to consume any alcoholic beverage upon
any area available for use by the public for motor vehicle parking purposes,
or any public street, highway, or sidewalk, where such area adjoins or is
adjacent ~~or appurtenant~~ to any establishment within Broward County,
Florida, where alcoholic beverages are sold or dispensed.

...

(3) It shall be unlawful for any person, or for the officers, employees, servants
or agents of any person, firm, association, or corporation licensed by the

State of Florida for the sale of alcoholic beverages for consumption either on or off the premises, to:

- a. Sell, serve, or dispense any alcoholic beverage to any person upon any motor vehicle parking area ~~which~~ that adjoins or is adjacent to ~~or adjoining, or appurtenant to~~ any establishment within Broward County, Florida, licensed for the sale of alcoholic beverages; or,
- b. Knowingly permit the consumption of any alcoholic beverage by any person upon any motor vehicle parking area ~~which~~ that adjoins or is adjacent to ~~or adjoining, or appurtenant to~~ any establishment within Broward County, Florida, licensed for the sale of alcoholic beverages.

(c) *Enforcement and Penalty.* ~~Any person convicted of violating any provision in this section shall be punished as provided by law~~ This section may be enforced by code enforcement officers, including municipal code enforcement officers, and any law enforcement agency having jurisdiction over the area where the establishment is located, pursuant to Section 125.69 and Chapter 162, Florida Statutes, or any applicable municipal code enforcement provision. Violations of this section are subject to prosecution and punishment as misdemeanors pursuant to Section 125.69(1), Florida Statutes, as amended.

Sec. 3-3. Possession of an open container of an alcoholic beverage, ~~consumption in motor vehicle.~~

~~(1)~~ (a) *Policy and intent:* The Broward County Board of County Commissioners ~~of Broward County~~ finds that ~~the consumption~~ possession of an open container containing

an alcoholic beverages while ~~driving~~ operating or riding in or on a ~~motor~~ vehicle poses a grave and imminent hazard to the health and welfare of the residents of Broward County. Therefore, it is declared to be the policy of Broward County that the ~~consumption of alcoholic beverages and the~~ possession of any open container containing an alcoholic beverages while ~~driving~~ operating or riding in or on a ~~motor~~ vehicle is prohibited.

(2) ~~Definitions:~~ The following words and phrases when used in this section shall, for the purposes of this section, have the following meanings:

(a) ~~Motor vehicle:~~ Any vehicle propelled by other than muscular power.

(b) ~~Alcoholic beverage:~~ Any beverage which contains more than one (1) percent of alcohol by weight.

(c) ~~Highway:~~ Any public street, avenue, boulevard, roadway, alley, sidewalk and other right-of-way located within Broward County.

(d) ~~Open container:~~ Any bottle, can or other receptacle containing any alcoholic beverage or any mixture containing an alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed. An open container shall not be considered in the possession of a person if the open container is located in a locked glove compartment, trunk or other locked compartment in the motor vehicle.

(3) (b) ~~Prohibitions:~~ No person shall drink from nor have in his possession any open container containing any alcoholic beverage or any mixture containing an alcoholic beverage while in or on a motor vehicle, whether moving or stopped, upon any highway. Any conduct in violation of Section 316.1936, Florida Statutes, as amended, prohibiting possession of an alcoholic beverage in a vehicle, shall be a violation of this section.

136 (4) ~~Exception; Vehicles for Hire:~~ No person shall be in violation of this section
137 who is a passenger in a motor vehicle operated by a motor carrier certificated or
138 registered in accordance with the provisions of chapter 22½ of the Broward County Code
139 of Ordinances, or a passenger in a motor vehicle with a passenger capacity of more than
140 eight (8), which motor vehicle is regularly engaged in the business of providing passenger
141 transportation for compensation and is being operated by a person for compensation.

142 (5) (c) ~~Enforcement:~~ and penalty. It shall be the duty and responsibility of all law
143 enforcement officers having jurisdiction over the area where the violation occurs to
144 enforce the provisions of this section. Violations of this section are subject to prosecution
145 and punishment as misdemeanors pursuant to Section 125.69(1), Florida Statutes, as
146 amended.

147 (6) ~~Penalty:~~ Any person convicted of violating any portion of this section shall
148 be punished as provided by law.

149 Section 2. Sections 3-4, 3-21, and 3-22 of the Broward County Code of
150 Ordinances are hereby repealed in their entirety.

151 Section 3. Severability.

152 If any portion of this Ordinance is determined by any court to be invalid, the invalid
153 portion will be stricken, and such striking will not affect the validity of the remainder of this
154 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
155 legally applied to any individual, group, entity, property, or circumstance, such
156 determination will not affect the applicability of this Ordinance to any other individual,
157 group, entity, property, or circumstance.

Section 4. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary to accomplish such intention.

Section 5. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Stacey R. Weinger 11/27/2023
Stacey R. Weinger (date)
Assistant County Attorney

By: /s/ Nathaniel A. Klitsberg 11/27/2023
Nathaniel A. Klitsberg (date)
Senior Assistant County Attorney

SRW/cv
Alcoholic Beverage Ordinance
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.