

Requested by: City Manager's Office
Prepared by: City Clerk

ORDINANCE NO. 2022-05

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE II, ALCOHOLIC BEVERAGE ESTABLISHMENTS, SECTIONS 6-33 THROUGH 6-39, RESERVED, ARTICLE III, CONSUMPTION OR POSSESSION IN PUBLIC AREAS, BY ADDING SECTION 6-39, DEFINITIONS, AND REVISING SECTION 6-40, PROHIBITED ACTS; CHAPTER 46, PARKS AND RECREATION, ARTICLE III, CONDUCT IN PARKS, SECTION 46-62, GENERAL RULES AND REGULATIONS FOR ALL PARKS, BEACHES AND RECREATIONAL AREAS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Venice currently prohibits the sale, possession and consumption of alcohol upon public beaches and adjacent parks and recreation areas; and

WHEREAS, due to this prohibition, the contracted food vendors at the Venice Fishing Pier and Humphris Park are prohibited from selling alcohol; and

WHEREAS, Sarasota County allows for the consumption of alcohol and the sale of beer and wine at all County public beaches; and

WHEREAS, all vendors of beer and wine must obtain a license from the State of Florida and comply with all associated rules and regulations to maintain the license; and

WHEREAS, on January 10, 2022, the Parks and Recreation Advisory Board recommended City Council permit the sale, possession and consumption of alcohol upon City public beaches and adjacent parks and recreation areas during daylight hours only.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 6, Alcoholic Beverages, Article II, Alcoholic Beverage Establishments, Sections 6-33 through 6-39, Reserved, is hereby amended as follows:

Secs. 6-33—6-39~~8~~. Reserved.

SECTION 3. Chapter 6, Alcoholic Beverages, Article III, Consumption or possession in public places is hereby amended as follows:

ARTICLE III. CONSUMPTION OR POSSESSION IN PUBLIC AREAS

Sec. 6-39. Definitions.

Alcoholic beverage means any beverage containing alcohol. The presence of alcohol in a beverage may be determined by any person who, by experience in the past in handling or the use of alcoholic beverages, or who by taste, smell or by the drinking of such alcoholic beverages, has knowledge as to the presence of alcohol in the subject beverage.

Daylight hours means the period of time between one-half hour before official sunrise through one-half hour after official sunset.

Open Container shall mean any can, glass, bottle, carton, cup or other receptacle capable of containing liquid and which is opened or so configured that a person can drink therefrom and which contains any amount of an alcoholic beverage; any commercially marketed alcoholic beverage, including beer, wine or liquor, the container of which is opened or has been opened; any alcoholic beverage container that is marketed with a seal that must be broken to be opened and such seal is broken; and opened but empty alcoholic beverage containers that are commercially marketed, such as beer, wine, liquor, gin, vodka or other alcoholic beverages.

Sec. 6-40. - Consumption of alcoholic beverages or possession of an open container on public property and right-of-way prohibited~~Prohibited acts.~~

It shall be unlawful for any person to drink, or consume an alcoholic beverage or possess ~~in an unsealed or open container~~ with intent to consume its contents, or container of which the seal has been broken, any alcoholic beverage within the city upon any public street, public parking area or sidewalk, public park, public beach or other publicly owned or operated recreational area ~~within the city~~, within any public building or upon any other public property, or upon any areas available for use by the public for motor vehicular parking purposes where such areas adjoin or are adjacent to any establishment where alcoholic beverages are sold or dispensed. The provisions of this section shall not apply to:

(1) Activities of lessees or concessionaires of the city or county, provided that the exemption pertaining to leases and concessionaires shall only apply to the possession of an open container or the drinking or consumption of an alcoholic beverage within the leasehold area or within the boundaries of a concession; or

(2) Activities of persons who are at a special event permitted under chapter 62 of this Code, when such special event permit authorizes the sale, consumption, or possession of alcoholic beverages, when such person is present within the permitted area for said special event within the timeframe said special event is taking place, and so long as the person complies with all municipal ordinances, and state laws; or

(3) Activities of persons at premises with a café permit under chapter 62 of this Code where such premises has obtained a current and valid state license to serve and permit consumption of alcoholic beverages upon its premises; or

(4) Persons on a public beach or within Humphris Park or on the Venice Fishing Pier who consume, or possess with the intent to consume, an alcoholic beverage from a non-glass container during daylight hours only.

Sec. 6-41. Exceptions. No change.

Secs. 6-42 through 6.70. Reserved. No change.

SECTION 4. Chapter 46, Parks and Recreation, Article III, Conduct in Parks, Division 7, Alcoholic Beverages, Section 46-62, General rules and regulations for all parks, beaches and recreational areas, is hereby amended as follows:

Sec. 46-62. General rules and regulations for all parks, beaches and recreational areas.

(a) The following rules and regulations pertain to all city-owned, leased or operated parks, beaches and recreational areas.

(1) through (10). No change.

(11) No person shall ~~drink, sell, possess~~ or consume any alcoholic beverages or possess an open container, except as otherwise allowed by section 6-40 of this code ~~without the written authorization of the city manager.~~

(12) through (14). No change.

SECTION 5. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 6. If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 7. This Ordinance shall take effect immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 22ND DAY OF FEBRUARY 2022.

First Reading: February 8, 2022

Final Reading: February 22, 2022

Adoption: February 22, 2022

Ron Feinsod, Mayor

ATTEST:

Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council at a meeting thereof duly convened and held on the 22nd day of February 2022 a quorum being present.

WITNESS my hand and the official seal of said City this 22nd day of February 2022.

Kelly Michaels, MMC, City Clerk

(SEAL)

Approved as to form:

Kelly Fernandez, City Attorney