

Mover-Robert Klimkowski Jr

Motion 2022-10 – Motion to Endorse Resolution 2022-10 in support of Ordinance 2022-10, making misdemeanor possession of cannabis or drug paraphernalia a violation of county code.

Resolution 2022-10

Whereas, A community will only allow a crime to rise to the level it will tolerate,

Whereas, A majority of that community no longer sees Cannabis usage as a crime.

Whereas, 7 other counties in Florida and several other cities have passed similar text.

Whereas, allocation of earmarked resources to violent crimes have proven to be a better use of taxpayers funds.

Whereas, based on evidence from our neighboring counties and cities, caging people for a plant does not make people safer.

Whereas, Brevard County should join the growing number of Florida counties and cities that recognize the individual liberties of their constituents, meaning that the constitution is “we the people”, of Brevard’s internal policy on cannabis.

THEREFORE, BE IT RESOLVED that as of____ the Libertarian Executive Committee of Brevard County, Florida supports Ordinance 2022-10, which amends county ordinance making misdemeanor possession of cannabis or drug paraphernalia a violation of county code. We urge all other political parties and clubs in Brevard County, Florida to support Ordinance 2022-10.

UPDATED AS OF 11MAY22 @ 1913 HRS

Ordinance 2022-10

AN ORDINANCE OF BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF BREVARD BY AMENDING CHAPTER 74 OFFENSES AND MISCELLANEOUS PROVISIONS BY CREATING SECTION 74-9 TO PROHIBIT POSSESSION OF CANNABIS AND DRUG PARAPHERNALIA IN UNINCORPORATED COUNTY; PROVIDING FOR SEVERABILITY; BY PROVIDING FOR CONFLICTING ORDINANCES; AUTHORIZING INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AS FOLLOWS:

SECTION I: Chapter 74 of the Code of Ordinances, County of Brevard is amended to read as follows:

Section 74-9. Possession of Cannabis and Drug Paraphernalia.

{a) Prohibitions. It shall be unlawful for any person to possess 20 grams or less of cannabis as defined in F.S §893.02(3). or its successor. or drug paraphernalia as defined in.F.S.. §893.145, or its successor.

(b) Jurisdiction. This section shall be applicable only within the unincorporated areas of the county.

(c) Penalty. Violations of this section are punishable ~~as provided in section 1-7-~~ as provided solely in Section 1(c) of this ordinance which is penalized as follows; A person convicted of a violation of this Code shall be punished by a fine up to and not to exceed \$50.00.

SECTION II: AUTHORIZING INCLUSION IN CODE - The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Brevard, as additions or amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION III: SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION IV: CONFLICTING ORDINANCES - All ordinances, or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION V: EFFECTIVE DATE-This Ordinance shall take effect May __, 2022.

AS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, THIS DAY OF __A.D._____, 2022.

*Supplemental information

Please see attached Section 1-7

Sec. 1-7. General penalty; continuing violations.

(a) In this section "violation of this Code" means:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. ch. 162.

(e) The board of county commissioners is authorized and empowered to institute legal proceedings in the circuit court of the county for the purpose of obtaining injunctive relief and such other relief as may be proper under the law against violators of this Code. The imposition of a penalty does not prevent equitable relief.

State law reference(s)—Penalty for violation of county ordinances, F.S. § 125.69.