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ORDINANCE NO. 2020-05

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA ADDING A NEW ARTICLE III TO CHAPTER 22 OF THE TOWN'S CODE OF ORDINANCES TO BE ENTITLED "CONDUCT IN TOWN PARK AND RECREATION AREAS"; PROVIDING DEFINITIONS; PROHIBITING ALCOHOLIC BEVERAGES IN OR ON ANY PUBLIC PROPERTY, PUBLIC RECREATION AREA, OR PUBLIC PARK UNLESS AUTHORIZED BY THE TOWN COUNCIL PURSUANT TO SECTION 8-93 OF THE TOWN'S CODE OF ORDINANCES; AUTHORIZING THE INSPECTION OF CONTAINERS FOR ALCOHOLIC BEVERAGES, PROVIDING THE INSPECTION PROCEDURE AND PROVIDING FOR CONFISCATION; PROVIDING FOR RATIFICATION, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:

Section 1. Legislative Findings. For the health, safety and welfare of its residents, the Town Council finds it necessary to prohibit alcoholic beverages in or on public property, public recreation areas and public parks unless otherwise authorized and approved by the Town Council.

Section 2. Approval of Revisions to the Town's Code of Ordinances. A new Article III to be entitled "Conduct in Town Park and Recreation Areas" is hereby added to Chapter 22 of the Town's Code of Ordinances as follows:

ARTICLE III. – CONDUCT IN TOWN PARK AND RECREATION AREAS

Sec. 22-45. Alcoholic beverages prohibited – Generally.

(a) *Definition of alcoholic beverage.* For purposes of this section, "alcoholic beverage" shall mean all beverages containing more than one percent of alcohol by weight and shall include intoxicating beverages as defined herein. "Intoxicating beverages" shall mean all liquors, wines and beers containing more than three and two-tenths percent of alcohol by weight. In all prosecutions for violations of this section, the manufacturer's label on the beverage container shall be prima facie evidence that the substance in such container was and is an alcoholic beverage as defined in this section.

(b) *Prohibition.* Except as provided in Sec. 8-93, it shall be unlawful for any person to purchase, sell or offer for sale, have in his possession or consume any alcoholic beverages, as defined in this section, in or on any public property, public recreation area or public park within the incorporated areas of the town.

(c) *Removal from premises.* Any person violating subsection (b) of this section may be ordered by a law enforcement officer or other person having authority to enforce this

47 section to leave the premises of the public property, public recreation area or public
48 park in which the violation occurs.

49
50 (d) *Enforcement.* Provisions of this section may be enforced by any person having the
51 authority to enforce town ordinances.

52
53 (e) *Penalties.* Violations of this section shall be as provided in Sec. 1-12.

54
55 **Sec. 22-46. - Inspection of containers brought into parks; consent to search.**

56
57 (a) *Definitions.* The following terms are hereby defined for the purpose of this section:

58
59 (1) *Enforcement officer* means any town law enforcement officer or uniformed town
60 park employee.

61 (2) *Container* means any cooler, portable icebox, carrier, luggage, can, bottle, bag or
62 box which may reasonably be used to contain alcoholic beverages.

63 (3) *Alcoholic beverage* is defined in the same fashion as that term is defined in Sec.
64 22-45.

65
66 (b) *Notice of consent to inspection.* There shall be posted at each entrance to any parking
67 areas adjacent to and at each entrance to any town park a sign which shall state in
68 such fashion as to be easily read from a distance of three feet by a person of average
69 eyesight, the following:

70
71 Alcoholic Beverages Prohibited

72 Consent to Inspection

73 Every person entering this park, upon request by an enforcement officer, shall
74 exhibit the contents of any container which may contain an alcoholic beverage.

75 Compliance with such a request is a condition of entry to this park.

76 Town of Windermere Code Sec. 22-46

77
78 (c) *Inspection procedure.* Any enforcement officer may demand of any person seeking
79 entrance to or present in any town park that such person exhibit the contents of any
80 container in his possession, custody or control for the sole purpose of inspecting such
81 container for the presence of alcoholic beverages. Any person refusing to consent to
82 such inspection of a container in his possession, custody or control shall be denied
83 admittance to a town park. If such person is present in a town park at the time a
84 demand for such inspection is made and refuses to consent to such inspection, such
85 person shall be ordered to leave the park immediately. Should such person refuse to
86 leave, such person shall be deemed in violation of this section and shall be punished
87 in the manner provided in Sec. 1-12.

88
89 (d) *Confiscation.* Should an enforcement officer observe a container over which no
90 person apparently has possession, custody or control, then such officer may take such
91 container into his possession and deliver it to the Town Manager or his designee, to

92 hold until claimed and properly identified, at which time such container shall be
93 subject to an alcoholic beverage inspection and the claimant of the container may be
94 cited for a violation of this section if the container is found to contain an alcoholic
95 beverage.
96

97 **Section 3. Ratification of Signs.** All signs in existence on the adoption date of this Ordinance
98 that comply with the provisions of Sec. 22-46 are hereby ratified and shall be considered to be in
99 compliance with this section.
100


101 **Section 4. Inclusion in the Code.** It is the intent of the Town Council that the provisions of this
102 Ordinance shall become and be made a part of the Town's Land Development Code and that the
103 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be
104 changed to "section," "article," or such other appropriate word or phrase to accomplish such
105 intentions.
106

107 **Section 5. Severability.** If any section, sentence, clause or phrase of the Ordinance is held to be
108 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
109 way affect the validity of the remaining portions of this Ordinance.
110

111 **Section 6. Effective Date.** This Ordinance shall become effective immediately upon its
112 enactment.
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114 **APPROVED AND ADOPTED** by the Town Council of the Town of Windermere on the 11th
115 day of August, 2020.
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118

119 Town of Windermere, Florida
120 By: Town Council
121

122
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124 By: 
125 Jim O'Brien, Mayor
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129 Attest:

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131 
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134 Dorothy Burkhalter, MMC, FCRM
135 Town Clerk
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137 First Reading: July 14, 2020



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Second Reading: August 11, 2020