

**ORDINANCE NO. 14-O-03**

**AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, AMENDING CHAPTER 12.2 OF THE CITY OF CRYSTAL RIVER CODE OF ORDINANCES, "PARKS AND RECREATION", THROUGH THE ADDITION OF ARTICLE III ENTITLED "OPEN CONTAINER ZONES"; PROVIDING FOR REPEALER; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Crystal River, Florida, acknowledges that the City of Crystal River is a community on the Gulf Coast of the State of Florida, and as a coastal community, attracts many recreational boaters to the waters within and adjacent to its municipal boundaries; and

**WHEREAS**, the City Council of the City of Crystal River, Florida, also acknowledges that many of its citizens own property on the waters within and adjacent to its municipal boundaries; and

**WHEREAS**, the City Council of the City of Crystal River, Florida, has determined that the waters within and adjacent to its municipal boundaries often become congested by swimmers, kayakers and boaters; and

**WHEREAS**, the U.S. Fish and Wildlife has prohibited possession of alcoholic beverages in the Three Sister's Wildlife Management Area, which is directly adjacent to the area being addressed by this ordinance; and

**WHEREAS**, Florida Statutes allow municipalities the authority to enact ordinances it determines are necessary to promote and to protect the health, safety and welfare its citizens and of the public in general within the boundaries of the City; and

**WHEREAS**, the City Council of the City of Crystal River, Florida, after publication of all required notice to the public of its consideration of this Ordinance, has determined that it is in the best interest of the health, safety and welfare of its citizens, and the public at large, to approve the amendments recommended by this Ordinance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRYSTAL RIVER, FLORIDA, AS FOLLOWS:**

**SECTION 1. PURPOSE.**

The purpose of this Ordinance is to amend the City of Crystal River Code of Ordinances, Chapter 12.2, "Parks and Recreation", through the addition of Article III, to be entitled "Open Container Zones", for the reasons set forth in the above "Whereas" clauses, which are incorporated herein, *in haec verba*.

## **SECTION 2. AUTHORITY.**

The City Council is authorized to amend the Crystal River Code of Ordinances pursuant to Article III of the City Charter of the City of Crystal River, and Part II, Chapter 1, General Provisions of the Code of Ordinances of the City of Crystal River, and as otherwise authorized by applicable Florida Statutes.

## **SECTION 3. AMENDMENT OF THE CITY OF CRYSTAL RIVER CODE OF ORDINANCES, CHAPTER 12.2 – PARKS AND RECREATION, SPECIFICALLY ADDING ARTICLE III, ENTITLED “OPEN CONTAINER ZONES”.**

The current language contained in the City of Crystal River Code of Ordinances, Chapter 12.2 “Parks and Recreation”, is hereby amended to include a new article, “Article III- Open Container Zone”, which shall read as follows:

### ***ARTICLE III – OPEN CONTAINER ZONE***

#### **Sec. 1 - Definitions:**

*The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

*Alcoholic beverage means distilled spirits and all beverages containing 0.5 percent or more alcohol by volume. The percentage of alcohol by volume shall be 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 the remainder ingredients were distilled water.*

*Code inspector means an authorized employee of the city whose duty it is to ensure code compliance, including but not limited to inspectors of the city's code compliance department and law enforcement officers.*

*Law enforcement officer or officer means any person who is elected, appointed or employed full time by the county or the state or any political subdivision thereof, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all part-time law enforcement officers, auxiliary law enforcement officers, officers of the Florida Fish and Wildlife Conservation Commission, and all certified supervisory and command personnel whose duties include, in whole and in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, reserve officers or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency.*

*Open container means any receptacle or container immediately capable of being consumed from by a person, or which has been opened, or a seal broken, or the contents of which have been partially removed.*

*Open Container Zone means the waterways of the City of Crystal River, Florida, identified in Attachment “A”.*

**Sec. 2. - Consumption and possession of open containers of alcoholic beverages on or in Open Container Zones.**

*(a) Violations.*

*(1) It shall be unlawful for any person to consume or possess an open container of any alcoholic beverage on or in the waterways of the city designated as the City of Crystal River's Open Container Zone, except in those areas as designated and approved for such use by the City Manager or the City of Crystal River City Council.*

*(2) This Section shall not be applicable to the possession of any open container on any private property or dock which is adjacent to any waters located within the Open Container Zone, and shall not be applicable to any properly moored house boat.*

*(b) Penalties.*

*(1) Any person determined to be guilty of a violation of subsection (a)(1) of this section shall be punished by imposition of a fine not to exceed \$50.00 for a first offense. Upon any subsequent violation of subsection (a)(1) of this section, such person shall be punished by imposition of a fine not to exceed \$300.00.*

*(2) Subsections (a)(1) of this section shall be prosecuted pursuant to the city's special master hearing process. Any code inspector or law enforcement officer who has observed a violation of subsections (a)(1) of this section shall be authorized to issue a notice of violation to any violator of this section.*

**SECTION 4. REPEAL OF CONFLICTING ORDINANCES.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5. SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence or paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 6. CODIFICATION**

It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Crystal River, Florida, with the exception of Sections 2, 4, 5 and 6. The word "Ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to rescind those sections of the Code declared null and void as set forth herein, within the City's Code of Ordinances.

**SECTION 7. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon passage by the City of Crystal River City Council.

This Ordinance was introduced and placed on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2014, and upon motion duly made and seconded was passed on first reading.

This Ordinance was introduced and placed on second reading on the \_\_\_\_ day of \_\_\_\_\_, 2014, and upon motion duly made and seconded was passed and adopted on second reading.

Attest: \_\_\_\_\_  
Carol Harrington, City Clerk

By: \_\_\_\_\_  
Jim Farley, Mayor

PASSED on First Reading \_\_\_\_\_

NOTICE Published on \_\_\_\_\_

PASSED on Second & Final Reading \_\_\_\_\_

Approved as to form for the  
reliance of the City of Crystal River  
only:  
  
\_\_\_\_\_  
George G. Angeliadis, City Attorney

VOTE OF COUNCIL:  
Holmes \_\_\_\_\_  
Gudis \_\_\_\_\_  
Brown \_\_\_\_\_  
Farley \_\_\_\_\_  
Wheeler \_\_\_\_\_