

#11

**ORDINANCE NO. 2022-10**

**AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE V OF THE CODE OF ORDINANCES TO PROHIBIT SMOKING IN CITY OWNED PUBLIC PARKS AND BEACHES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, City of Flagler Beach Code of Ordinances, Chapter 6, "Beaches and Recreation," Article V, "Rules and Regulations for Parks," Section 6-73, "Prohibited Activities," sets forth various activities that are prohibited within city parks; and

**WHEREAS**, CS/HB 105, which was approved by the Governor on June 24, 2022 and which became effective July 1, 2022, amended the Florida Clean Air Act to provide that counties and municipalities may restrict smoking within the boundaries of any public beaches and public parks that they own; and

**WHEREAS**, in CS/HB 105, the Florida legislature expressly provided that counties and cities may not restrict the smoking of unfiltered cigars at public parks and beaches; and

**WHEREAS**, according to the Truth Initiative, America's largest nonprofit public health organization, cigarette butts have consistently made up between 30 and 40 percent of all items collected in annual international coastal and urban cleanups and cigarette butts have the longstanding distinction of being the most littered item on earth; and

**WHEREAS**, 98 percent of cigarette filters are made of plastic fibers which only degrade under severe biological circumstances; and

**WHEREAS**, in practice, cigarette butts discarded in public places do not biodegrade; and

**WHEREAS**, the City Commission desires to protect the aesthetic beauty and environmental health of the City's public parks and beaches; and

**WHEREAS**, the exposure to second hand smoke is known to cause numerous health problems and has been causally linked to cancer and other potentially fatal diseases; and

**WHEREAS**, the City Commission desires to enable residents and visitors to enjoy the City's public parks without exposure to unhealthy second hand smoke; and

**WHEREAS**, the City Commission finds that this Ordinance serves the public interest and is necessary and appropriate to protect public health, safety, and welfare.

46           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
47 **CITY OF FLAGLER BEACH, FLORIDA THAT:**  
48

49           **SECTION 1.** The City of Flagler Beach Code of Ordinances, Chapter 6, "Beaches and  
50 Recreation," Article V, "Rules and Regulations for Parks," Section 6-73, "Prohibited Activities,"  
51 is hereby amended as follows (note: strikethrough text indicates deletions, underline text indicates  
52 additions, ellipses (\*\*\*) identify text that remains unchanged and that is not reprinted herein):  
53

54 **Sec. 6-73. - Prohibited activities.**  
55

56           It shall be prohibited for any person in a public park or recreation area to:  
57

- 58           (1) Mark, deface, disfigure, injure, tamper with or displace or remove any  
59 buildings, bridges, tables, benches, fireplaces, railings, paving or paving  
60 materials, water lines, park signs, notices, placards, equipment or other public  
61 utilities.  
62
- 63           (2) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other  
64 wood or materials, or make any excavation by tool, equipment, blasting or other  
65 means or agency.  
66
- 67           (3) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark,  
68 or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas,  
69 or in any other way injure the natural beauty or usefulness of any area.  
70
- 71           (4) Construct or erect any building or structure of whatever kind, whether  
72 permanent or temporary, or run or string any public service utility into, upon, or  
73 across such lands, except on written approval of the city.  
74
- 75           (5) Throw, discharge, or otherwise place or cause to be placed in the waters of  
76 any fountains, pond, lake, stream or other body of water in or adjacent to any park  
77 or any tributary, stream, storm sewer, or drain flowing into such water, any  
78 substance, matter or thing, liquid or solid, which will or may result in the  
79 degradation of the quality of said waters.  
80
- 81           (6) Bring into, dump, deposit or leave any bottles, broken glass, ashes, paper,  
82 boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. Trash shall be  
83 placed in the proper receptacles where available. If receptacles are not available,  
84 all waste shall be carried away from the park by the person responsible for its  
85 presence, and properly disposed of elsewhere.  
86
- 87           (7) Possess, hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or  
88 throw missiles at any animal, wildlife, reptile or bird or their eggs or nests.  
89
- 90           (8) Ride a horse.  
91

(9) Walk a domestic animal without a leash, which leash shall not exceed eight (8) feet in length. Leashes are not required within designated dog parks. The owner or person having custody of any domestic animal shall be responsible for removal of any animal solid waste.

(10) Drive any motorized vehicle on any area except the designated park roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas.

(11) Drive a motor vehicle in excess of the posted speed limit in a park or recreation facility.

(12) Park a motorized vehicle anywhere except in a designated parking area.

(13) Park a vehicle overnight.

(14) Bicycles shall be placed in designated bicycle racks.

(15) Wash any vehicles or use county water for other than for drinking or sanitary reasons.

(16) Possess or discharge any instrument that fires a potentially dangerous projectile, gas or liquid.

(17) Process, explode, discharge or burn within, or bring into any park area any fireworks or other potentially dangerous flammable material, except charcoal lighter fluid, unless authorized by a special events permit. In an emergency, the discharge of distress signals is permitted. The use of charcoal lighter fluid is only permitted in designated barbeque pits.

(18) Expose or offer for sale any article or thing, nor shall any person station or place any stand, cart or vehicle for the transportation, sale or display of any such article or merchandise within the limits of any park or recreation area. Exception is made as to any regularly licensed concessionaire acting by and under the authority and regulation of the city.

(19) Kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent adult from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or near any tree or underbrush.

(20) Possess or consume alcoholic beverages.

137 (21) Smoke cigarettes, filtered cigars, or pipes, or use any other devices to inhale  
138 smoke from burning tobacco products within a city owned public park, beach, or  
139 boardwalk, unless such activity occurs in an area designated for smoking or tobacco use  
140 by posted signage. For purposes of this paragraph, the term smoking shall mean the  
141 inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product.  
142

143 (224) Solicit alms or contributions for any purpose, whether public or private.  
144

145 (232) Play any game of chance or have possession of any instrument or device for  
146 gambling.  
147

148 (243) Sell or offer for sale alcoholic beverages.  
149

150 (254) Camp or stay overnight.  
151

152 (265) Sleep or lounge on seats, or benches, or other areas, or engage in loud,  
153 boisterous, threatening, abusive, insulting, or indecent language or engage in any  
154 disorderly conduct or behavior tending to breach the public peace.  
155

156 (276) Fail to exhibit, upon request by city personnel, a valid authorization issued  
157 pursuant to this Code.  
158

159 (287) Disturb or interfere unreasonably with any person or party occupying any  
160 area or participating in authorized activities.  
161

162 (298) Erect or occupy any tent, stand or other structure in any park or playground,  
163 or sell or give away from any such tent, stand or other structure any food, drink or  
164 other thing, without city authorization.  
165

166 (3029) Play or practice golf except in areas designated for this activity.  
167

168 (319) Conduct or participate in meetings or events that last longer than one (1)  
169 day.  
170

171 (324) Conduct or participate in events, projects or activities that could curtail,  
172 impede or interfere with the use by others of any park, facility or recreation area.  
173

174 **SECTION 2. CODIFICATION.** It is the intent of the City Commission of the City of  
175 Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted broad  
176 and liberal authority in codifying the provision of this Ordinance.  
177

178 **SECTION 3. SEVERABILITY.** If any section, sentence, phrase, word or portion of  
179 this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall  
180 not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase,  
181 word or portion of this Ordinance not otherwise determined to be invalid, unlawful or  
182 unconstitutional.

183  
184       **SECTION 4. CONFLICTS.** In any case where a provision of this Ordinance is found  
185 to be in conflict with a provision of any other ordinance of this City, the provision which  
186 establishes the higher standards for the promotion and protection of the health and safety of the  
187 people shall prevail.  
188

189       **SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective immediately  
190 upon its passage and adoption.  
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192       **ADOPTED** by the City Commission of the City of Flagler Beach, Florida, this \_\_\_\_ day  
193 of \_\_\_\_\_, 2022.  
194

195  
196 \_\_\_\_\_  
197 Suzie Johnston, Mayor  
198

199 *ATTEST:*  
200  
201

202 \_\_\_\_\_  
203 Penny Overstreet, City Clerk

## Ad Preview

The City of Flagler Beach proposes to adopt the following ordinance:

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FLAGLER BEACH, FLORIDA,  
AMENDING CHAPTER 6, ARTICLE V  
OF THE CODE OF ORDINANCES TO  
PROHIBIT SMOKING IN CITY  
OWNED PUBLIC PARKS AND  
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Public Hearings will be conducted to consider the amendments as follows:

City Commission:

Second Reading: October 13, 2022 @ 6:00 p.m. or soon thereafter

The public hearings may be continued to a future date or dates. The times and dates of any continuances of a public hearing shall be announced during the public hearing without any further published notice. The request will be heard at 6:00 PM, or as soon thereafter as possible, in the City Commission Chambers located at 105 South Second Street, Flagler Beach, Florida.

If a person decides to appeal any decision made with respect to any matter considered at the above referenced hearings, he/she will need a record of the proceedings. For such purposes, it may be necessary to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office at 386-517-2000 Ext. 233 at least 48 hours prior to the meeting.

October 03, 2022