



## City of North Port

### ORDINANCE NO. 2019-38

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, REPEALING SECTION 50-6 OF THE CODE OF THE CITY OF NORTH PORT, FLORIDA, ENTITLED "SMOKING"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 1.02(a) of the Charter of the City of North Port provides that the City shall have all powers granted to municipal corporations and cities by the constitution and laws of the State of Florida, except as otherwise prohibited by the constitution or laws of the United States or the State of Florida, the Sarasota County Charter, or as restricted by the City's Charter; and

**WHEREAS**, the City Commission has utilized this authority over time to create the Code of the City of North Port, Florida (the "Code"); and

**WHEREAS**, City staff and the City Attorney's Office periodically review the Code and make recommendations to the City Commission to revise the Code as necessary to comply with the laws of the State of Florida and the City Charter; and

**WHEREAS**, Section 50-6 of the Code, entitled "Smoking," provides regulations regarding the posting of "no smoking" and "smoking area" signs, prohibits smoking of tobacco products in the Skate Park and during organized youth activities in the Narramore Sports Park, and provides penalties for offenses; and

**WHEREAS**, Section 386.209, Florida Statutes provides that the regulation of smoking is preempted to the State of Florida and that Chapter 386, Part II, Florida Statutes, supersedes any municipal ordinance on the subject; and

**WHEREAS**, in accordance with Section 386.209, Florida Statutes, the City Commission finds that it is in the best interests of the City of North Port repeal Section 50-6 of the Code;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**

#### **SECTION 1 – FINDINGS**

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

**SECTION 2 – REPEAL**

2.01 The City Commission hereby repeals Section 50-6 of the Code of the City of North Port, Florida in its entirety.

**SECTION 3 – CONFLICTS**

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or provisions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

**SECTION 4 – SEVERABILITY**

4.01 If any section, subsection, sentence, clause, phase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5 – CODIFICATION**

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

**SECTION 6 – EFFECTIVE DATE**

6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on the 10th day of September 2019.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session this 24th day of September 2019.

CITY OF NORTH PORT, FLORIDA

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CHRISTOPHER HANKS  
MAYOR

ATTEST

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KATHRYN WONG  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

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AMBER L. SLAYTON  
CITY ATTORNEY