



City of North Port

ORDINANCE NO. 2023-33

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, PROHIBITING SMOKING AT PUBLIC PARKS; AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA TO CREATE A NEW SECTION 46-64; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Chapter 386 (the Florida Clean Air Act) preempts the regulation of smoking in the State of Florida; and

WHEREAS, Florida Statutes Section 386.209 provides that a municipality may further restrict smoking within the boundaries of any public beaches and public parks within its jurisdiction, unless such restriction conflicts with a county ordinance, except that the municipality may not further restrict the smoking of unfiltered cigars; and

WHEREAS, cigarette butts pollute parks and waterways and contain toxic chemicals that adversely impact the environment; and

WHEREAS, littered cigarette butts and filtered cigar debris are difficult to remove from public parks, can cause hazards to park patrons and wildlife, can significantly detract from a healthy environment, and can reduce the enjoyment of the City's public parks for those individuals and families who want to enjoy a healthy environment, free of smoking-related pollution and hazards; and

WHEREAS, the City Commission desires to regulate smoking at parking parks in accordance with its statutory authority; and

WHEREAS, the City Commission desires a delayed effective date to allow for public education on this new regulation; and

WHEREAS, the City Commission finds that these amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

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

SECTION 1 – FINDINGS

1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.

- 1.02 In accordance with Florida Statutes Section 166.041(4)(a), the City timely posted a business impact estimate on the City’s website on or before the date the newspaper published notice of this ordinance’s final reading.

SECTION 2 – ADOPTION

- 2.01 Chapter 46 of the Code of the City of North Port, Florida is hereby amended as follows:

“Chapter 46 – OFFENSES

...

ARTICLE III. – OFFENSES INVOLVING PUBLIC SAFETY

...

Sec. 46-64. – Smoking prohibited in parks.

- (a) Prohibited conduct. Smoking cigarettes, e-cigarettes, vapes, filtered cigars, pipes, and other devices that can be used to inhale, exhale, burn, or carry tobacco products are prohibited at the city’s public parks identified below, except in designated smoking areas. This prohibition does not apply to unfiltered cigars.
- (b) Designated smoking areas. A designated smoking area may only be located on an improved parking lot that is paved, shelled, or graveled; it may not be located on grass or any other unimproved parking area. Designated smoking areas must be identified with signage and waste receptacles.
- (c) No smoking area designation. A park that does not have the proper type of improved parking area will not have a designated smoking area. Additionally, no designated smoking area shall be provided for the following natural parks:
- (1) Warm Mineral Springs Park;
 - (2) Myakkahatchee Creek Environmental Park; and
 - (3) Oaks Park.
- (d) Park locations. This regulation applies to the following public parks:
- (1) Atwater Community Park
 - (2) Blue Ridge Park
 - (3) Boca Chica Park
 - (4) Butler Park
 - (5) Canine Club Dog Park
 - (6) Circle of Honor
 - (7) City Center Green Complex
 - (8) Dallas White Park
 - (9) Garden of the Five Senses
 - (10) Highland Ridge Park
 - (11) Hope Park
 - (12) Kirk Park

- (13) LaBrea Park
- (14) Marina Park
- (15) Marius Park
- (16) McKibben Park
- (17) Myakkahatchee Creek Environmental Park
- (18) Myakkahatchee Creek Greenway Disc Golf Course
- (19) Myakkahatchee Creek Linear Park
- (20) Narramore Sports Complex
- (21) Oaks Park
- (22) Pine Park
- (23) Skate Park
- (24) Sumter Boulevard Linear Park
- (25) Warm Mineral Springs Park

(d) *Enforcement.* A person issued a violation shall have thirty (30) days from the date of issuance to pay the applicable penalty or request a hearing before the city’s hearing officer to contest the violation. A person’s failure to pay the applicable penalty or request a hearing within the time provided by this section shall be deemed an admission of the violation and shall constitute a waiver of any right to contest the violation.

(e) *Penalties.* The penalty imposed pursuant to this section shall be \$25.00 for a first violation, \$50.00 for a second violation, and \$75.00 for each additional repeat violation.”

SECTION 4 – CONFLICTS

4.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 5 – SEVERABILITY

5.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 6 – CODIFICATION

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

SECTION 7 – EFFECTIVE DATE

7.01 This ordinance takes effect on March 1, 2024.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on November 14, 2023.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on November 28, 2023.

CITY OF NORTH PORT, FLORIDA

ALICE WHITE
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY