

**CITY OF AVENTURA ORDINANCE NO. 2022-15**

**AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING CHAPTER 33 “PARKS AND RECREATION” OF THE CITY CODE, TO CREATE SECTION 33-3 “SMOKING PROHIBITED” TO PROHIBIT SMOKING IN CITY PARKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 386, Part II of Florida Statutes, the Florida Clean Indoor Air Act, implements Article X, Section 20 of the Florida Constitution, which prohibits a person from smoking tobacco or using a vapor-generating electronic device in an enclosed indoor workplace, with certain exceptions; and

**WHEREAS**, currently, Florida Statutes preempt the regulation of smoking and does not allow counties or municipalities to regulate smoking; and

**WHEREAS**, on June 24, 2022, the Florida Governor signed into law House Bill 105 (“HB 105”), which amends the Florida Clean Indoor Air Act to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park, except for unfiltered cigars; and

**WHEREAS**, the City desires to prohibit smoking in its municipal parks; and

**WHEREAS**, the City Commission deems it to be in the best interest of the City to adopt this Ordinance creating Section 33-3 to prohibit smoking in City parks.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AS FOLLOWS<sup>1</sup>:**

**Section 1.** **Recitals Incorporated.** That each of the above-stated recitals are hereby adopted and confirmed.

**Section 2.** **City Code Amended.** That Chapter 33 “Parks and Recreation” of the City Code is hereby amended to create Section 33-3 “Smoking Prohibited” to read as follows:

**CHAPTER 33 – PARKS AND RECREATION**

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**Section 33-3.** **Smoking Prohibited.**

(a) For purposes of this Section, “park” shall mean any land, water area, or trail

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<sup>1</sup> Additions to existing City Code text are indicated by underline; deletions from existing City Code text are indicated by ~~strikethrough~~.

corridor and all facilities thereon, under the jurisdiction, control, or ownership of the City.

(b) It shall be unlawful for any person to smoke in a park, except for the smoking of unfiltered cigars.

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner Friedland, who moved its adoption on first reading. This motion was seconded by Vice Mayor Landman and upon being put to a vote, the vote was as follows:

Commissioner Rachel S. Friedland	<u>Yes</u>
Commissioner Billy Joel	<u>Yes</u>
Commissioner Dr. Linda Marks	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Yes</u>
Vice Mayor Denise Landman	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

The foregoing Ordinance was offered by Vice Mayor Landman, who moved its adoption on second reading. This motion was seconded by Commissioner Joel and upon being put to a vote, the vote was as follows:

Commissioner Rachel S. Friedland	<u>Absent</u>
Commissioner Billy Joel	<u>Yes</u>
Commissioner Dr. Linda Marks	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Absent</u>
Vice Mayor Denise Landman	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

**PASSED** on first reading this 19<sup>th</sup> day of July, 2022.

**PASSED AND ADOPTED** on second reading this 13<sup>th</sup> day of September, 2022.



  
ENID WEISMAN, MAYOR

ATTEST:

  
ELLISA L. HORVATH, MMC  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
CITY ATTORNEY