

ORDINANCE 2022-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 42, ENVIRONMENT, ARTICLE II, NUISANCES, DIVISION 2, HEALTH NUISANCES, AMENDING SECTION 42-61 BY INCLUDING SMOKING ON CITY BEACHES AND IN CITY PARKS AS PUBLIC HEALTH NUISANCES; CREATING SECTION 42-63 DEFINITIONS; CREATING SECTION 42-64 PROHIBITING SMOKING ON CITY BEACHES AND IN CITY PARKS; **CREATING SECTION 42-65 PROVIDING FOR PENALTIES**; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, secondhand smoke causes coronary artery disease, asthma attacks, heart disease, asthma attacks, heart attacks, stroke and lung cancer in adults and Sudden Infant Death Syndrome, middle ear infections, bronchitis, asthma, pneumonia and low birth weight in children; and

WHEREAS, secondhand smoke is especially dangerous to children whose bodies are still developing and who are particularly vulnerable to the poisons of secondhand smoke; and

WHEREAS, with smoking and smoking-related illnesses in the top four leading causes of death in Fernandina Beach and Nassau County, prohibiting smoking on City beaches and in City parks frequented by children and adults will help to reduce these statistics and serve as a means to improve health outcomes for residents and visitors to Fernandina Beach; and

**WHEREAS, another significant issue with tobacco smoking on City beaches and in City parks is litter consisting of used cigarette filters, also known as “cigarette butts” which contain hazardous substances that can be toxic to animals; and**

WHEREAS, this ordinance is intended to protect the health, safety and welfare of city residents and visitors by prohibiting smoking on City beaches and in City parks, including beach parks; and

**WHEREAS, ordinance is intended to protect the environment from litter that can be toxic to animals and humans; and**

WHEREAS, as of July 1, 2022, the Florida Legislature has enacted **Senate Bill 224 Ch. 2022-213 Laws of Florida** which permits municipalities and counties to restrict smoking on their local beaches and in local parks; and

**WHEREAS, the City Commissions wishes to protect the health, safety and welfare of its residents, and visitors and animals in the environment by prohibiting smoking on City beaches and in City parks.**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH AS FOLLOWS:

SECTION 1. It is hereby proposed that Chapter 42, Article II, Nuisances, Division 2, Health Nuisances, Section 42-61 of the Code of Ordinances, City of Fernandina Beach, Florida is amended to read as follows:

**Sec. 42-61. - Enumerated.**

Public nuisances affecting health shall include but not be limited to the following acts, omissions, conditions, or things:

- (1) All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) Garbage cans which are not flytight.
- (6) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, or industrial dust within the City limits in quantities so as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (7) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes, or other substances.
- (8) Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the City.
- (9) Smoking in City parks or on City beaches, except as provided in Section 386.209, Florida Statutes.

SECTION 2. It is hereby proposed that the Code of Ordinances, City of Fernandina Beach, Florida, Chapter 42, Article II, Division 2, Health Nuisances, be hereby amended by adding a section to be numbered 42-63, which section shall read as follows:

**42-63. Definitions.**

- (a) “Secondhand smoke,” also known as environmental tobacco smoke (ETS), means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling; smoke emitted at the mouthpiece during puff drawing; and smoke exhaled by the smoker.
- (b) “Smoking” means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

SECTION 3. It is hereby proposed that the Code of Ordinances, City of Fernandina Beach, Florida, Chapter 42, Article II, Division 2, Health Nuisances, be hereby amended by adding a section to be numbered 42-64, which section shall read as follows:

**42-64. Smoking Prohibited Beaches and Parks.**

- (a) Smoking is a public health nuisance and is strictly prohibited in all City parks and on City beaches, with the exception of the smoking of unfiltered cigars. that do not contain a filter or plastic tip or the smoking of pipe tobacco in a pipe.
- (b) Any signage installed by the City prohibiting smoking in City parks and on City beaches must state that “smoking is prohibited except as provided in Section 386.209, Florida Statutes”, and the sign must provide a scannable quick response code linked to this Florida Statute.

SECTION 4. It is hereby proposed that the Code of Ordinances, City of Fernandina Beach, Florida, Chapter 42, Article II, Division 2, Health Nuisances, be hereby amended by adding a section to be numbered 42-65, which section shall read as follows:

**Sec. 42-65. – Penalties.**

Any person who violates this Division may receive a citation and civil penalty in the amount of \$75.00, and if such violator wishes to appeal the citation, they must do so in accordance with Section 2-399 of this Code.

SECTION 5. SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, the holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 6. This Ordinance shall become effective immediately upon enactment.

ENACTED this 16<sup>th</sup> day of August, 2022.

CITY OF FERNANDINA BEACH

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MICHAEL A. LEDNOVICH  
Mayor - Commissioner

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
CAROLINE BEST  
City Clerk

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TAMMI E. BACH  
City Attorney

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