

ORDINANCE NO. 2022-06

AN ORDINANCE OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA RELATING TO THE ESTABLISHMENT OF DESIGNATED SMOKING AREAS WITHIN MUNICIPAL PARKS AND BEACHES; AMENDING ARTICLE II, CHAPTER 12 OF THE CODE OF ORDINANCES ADDING A NEW SECTION 12-6 PROHIBITING SMOKING, AS AUTHORIZED BY FLORIDA LAW EXCEPT WITHIN DESIGNATED SMOKING AREAS OF A MUNICIPAL PARK OR MUNICIPALLY CONTROLLED BEACH AND BEACH PARK; PROVIDING SEVERABILITY, REPEAL, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, Florida Statute Chapter 386.209 provides that the regulation of smoking is preempted to the State of Florida; and

WHEREAS, the youth of our community and communities throughout Florida currently play on playgrounds, athletic fields, skate parks, aquatic facilities and other recreation facilities with inconsiderate smokers around the children providing them unhealthy secondhand smoke; and

WHEREAS, a report by the United States Department of Health and Human Services, Surgeon General states tobacco smoke contains over 7,000 chemicals, including hundreds that are toxic and up to 69 that are known to cause cancer and exposure to secondhand smoke can cause numerous health problems and has been linked to cancer and other fatal diseases; and

WHEREAS, the staff analysis published for HB 105 references various studies from United Health Foundation, America's Health Rankings, the Centers for Disease Control and Prevention, and others on the impact smoking has on the health of citizens; and

WHEREAS, the reports referenced in the staff analysis for HB 105 further states Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker. Exposure to secondhand smoke can cause numerous health problems and has been causally linked to cancer and other fatal diseases. Studies suggest that secondhand smoke in crowded outdoor areas can cause concentrations of air contaminants comparable to those caused by indoor smoking.

WHEREAS, the Center of Disease Control states secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker; and

WHEREAS, the current law prohibits cities and counties from establishing reasonable smoke-free zones or designated smoking areas so that our young people can

enjoy playing on playgrounds, at recreation facilities, or athletic fields, or watching their siblings play without encountering dangerous secondhand smoke; and

WHEREAS, SB 224 and HB 105 were filed in the Florida Legislature for the 2022 Legislative Session that would allow cities and counties to protect the youth of their community through the designation of smoke-free zones or designated smoking areas; and

WHEREAS, HB 105, as amended, passed the Florida Legislature on March 2, 2022 and will be transmitted to the Governor to sign into law, veto, or allow to become law without his signature. If HB 105 becomes law that would allow cities and counties to protect the youth of their community through the designation of smoke-free zones or designated smoking areas; and

WHEREAS, in anticipation of the HB 105 becoming law on July 1, 2022, the Indian Harbour Beach City Council determines a public health and safety need to establish designated smoking areas within the municipal parks and municipal beaches.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Indian Harbour Beach, Brevard County, Florida, that:

Section 1. Section 6 of Article II of Chapter 12 is hereby added to the Code of Ordinances and reads as follows:

“Sec. 6. – Adoption of Designated Smoking Areas within Municipal Parks and Municipal Beach Parks.

The City Council hereby adopts regulations prohibiting smoking, except in designated areas of municipal parks and municipal beach parks and as exempted by the Florida Legislature (filtered cigars), as authorized by Florida Law, HB 105, adopted in the 2022 Legislative Session.

Section 2. In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

Section 3. All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

Section 4. The City Clerk of the City is hereby directed to incorporate Section 1 into the Code of the City.

Section 5. This ordinance shall become effective on July 1, 2022, and should the Governor veto HB 105, this ordinance shall become null and void.

PASSED AND ADOPTED by the City Council of the City of Indian Harbour Beach, Brevard County, Florida, this 28th day of June 2022.



X

Scott Nickle
Mayor

X

Sue Frank, MMC
City Clerk

First Reading:

June 14, 2022

Second Reading & Public Hearing:

June 28, 2022