

CITY OF SARASOTA
Sarasota, Florida

Inter-Office Memorandum

October 4, 2022

TO: Shayla Griggs, City Auditor and Clerk

FROM: Robert M. Fournier, City Attorney *RMF*



RE: Ordinance No. 22-5446
Prohibiting Smoking on City-owned public beaches

Enclosed for execution is the original of the ordinance referred to above which was adopted on second reading by the City Commission at a regular City Commission meeting of October 3, 2022.

Thank you for your attention to the above.

/lg

enc.: a/s

ORDINANCE NO. 22-5446

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA PROHIBITING SMOKING ON CITY OWNED PUBLIC BEACHES AND WITHIN CITY OWNED PUBLIC BEACH PARKS AT ALL TIMES, EXCEPT WITHIN DESIGNATED SMOKING AREAS; PROVIDING A DEFINITION FOR THE TERM "SMOKING"; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Clean Air Act (formerly known as the Florida Clean Indoor Air Act) preempts the regulation of smoking to the State of Florida; and,

WHEREAS, CS/HB 105, which was approved by the Governor on June 24, 2022 and became effective July 1, 2022, amended the Florida Clean Air Act to provide that counties and municipalities may restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not restrict the smoking of unfiltered cigars; and,

WHEREAS, cigarette butts are one of the most commonly found items of litter on Florida's beaches; and,

WHEREAS, the litter caused by those who improperly dispose of filtered cigars and cigarette butts or other tobacco products on the Public Beach and in Public Beach Parks is difficult to remove from the beaches, can cause ingestion hazards to park patrons and wildlife, can significantly detract from a healthy environment, and reduce the enjoyment of the City's public beaches for those individuals and families who want to enjoy a healthy environment, free of smoking-related pollution and hazards; and,

WHEREAS, research conducted by the Ocean Conservancy, a nonprofit environmental advocacy group, has found that cigarette butts are the fourth most harmful type of litter to marine life due to ingestion and contamination of the environment, and thus harm seabirds, sea turtles and marine mammals; and,

WHEREAS, organic chemicals and heavy metals from cigarettes collect on cigarette filters and are then washed into our waterways and into the Gulf of Mexico and sea birds and sea mammals ingest the butts, mistaking them for food; and,

WHEREAS, in addition to the harmful impact of litter, the staff analysis of HB 105 noted the adverse impact that smoking has on the health of the smoker and potentially on others as well; and,

WHEREAS, the staff analysis of HB 105 further notes that exposure to second hand smoke can cause numerous health problems and has been causally linked to cancer and to other potentially fatal diseases. Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker; and,

WHEREAS, the City Commission finds that this Ordinance serves the public interest and is necessary in order to protect the City's beaches and associated parks and visitors to the City's beaches and associated beach parks.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The Sarasota City Code, Chapter 10, Beaches and Waterways; Article I, Section 10-13, is hereby amended to provide as follows: (New text is shown in underline and deleted text is shown in ~~strike-through~~.)

Section 10-13. Smoking of cigarettes, filtered cigars, and tobacco products smoking of pipes and other smoke inhalation devices prohibited; Enforcement, Remedies and Penalties.

a. The use smoking of cigarettes, filtered cigars, pipes or any ~~tobacco products other devices that can be used to inhale smoke from a burning tobacco product~~ within any Public Beach Park or on any portion of a City owned public beach located seaward or waterward of or within a any city owned public beach park is prohibited at ~~any~~ all times, except in designated smoking areas, as determined by resolution adopted by the City Commission of the City of Sarasota. For purposes of this section, a "beach" is defined as: a sandy or rocky area along the shoreline of the Gulf of Mexico or Sarasota Bay located waterward or seaward of the vegetation line or a bluff and that is owned by the City of Sarasota and open to the public; and a "public beach park" is defined as: any public parkland contiguous to a beach or separated by a roadway from a beach ~~that is located along the Gulf of Mexico and/or Big Sarasota~~

~~Pass, Venice Inlet, or a reestablished Midnight Pass, including parking areas associated with the public beach park and owned by the City of Sarasota and open to the public.~~

~~b. Sarasota County Sheriff's deputies, City of Sarasota Police Officers and any other law enforcement or code compliance officer authorized to enforce City or County ordinances shall have the duty and authority to enforce the provisions of this article by the issuance of a citation to the alleged violator. A citation shall contain the following:~~

- ~~1. The date and time of issuance;~~
- ~~2. The name, if available, and address of the Person to whom the citation is issued;~~
- ~~3. The date the infraction was committed;~~
- ~~4. The facts of the infraction;~~
- ~~5. The number or section of the code violated;~~
- ~~6. The name and title of the law enforcement officer or code compliance officer;~~
- ~~7. The procedure for the person to follow in order to pay the penalty or to contest the Citation;~~
- ~~8. The applicable penalty if the person elects to contest the citation;~~
- ~~9. A conspicuous statement that if the person fails to pay the penalty within 30 days or fails to appear in court to contest the citation, the Person shall be deemed to have waived his or her right~~

~~to contest the citation and that, in such case, judgment shall be entered against the Person for the amount of the citation, plus court costs, recording fees, and any other charges required by this article.~~

b. The term "smoking" as used in this Section 10-13 shall have the same meaning as in the Florida Clean Air Act. That is, the term "smoking" shall mean "inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted product."

c. Notwithstanding any other provisions of this article for enforcement or penalties, the City may also enforce this article by actions at law or in equity for damages and injunctive relief.

d. Any person who violates this section 10-13 ~~is shall be~~ subject to a ~~civil fine in the amount of \$97.00~~ penalty as provided in Section 1-11 of the City Code, plus any additional costs imposed by state or local law, including court costs that may be imposed as provided by law.

Section 2. Ordinance 08-4797 providing that those sections of the Sarasota County Code of Ordinances banning smoking on beaches shall be effective and enforceable by the City and the County within the municipal limits of the City of Sarasota and finding that said sections of the Sarasota County Code were not in conflict with any City ordinance, is hereby specifically repealed.

Section 3. Should any section, sentence, clause, part or provision of this Ordinance be declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole, or any part hereof other

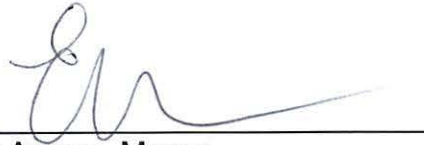
than the part declared to be invalid. Said provision declared to be invalid shall be deemed severed from the remaining provisions of this Ordinance.

Section 4. This ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 6th day of September, 2022.

PASSED on second reading and finally adopted this 3rd day of October, 2022.

CITY OF SARASOTA



Erik Arroyo, Mayor

ATTEST:



Shayla Griggs
City Auditor and Clerk

- Yes Mayor Erik Arroyo
- Yes Vice Mayor Kyle Scott Battie
- Yes Commissioner Jen Ahearn-Koch
- Yes Commissioner Liz Alpert
- Yes Commissioner Hagen Brody