

ORDINANCE NO. 2022- _____

AN ORDINANCE OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 99 OF THE CITY OF SUNNY ISLES BEACH CODE OF ORDINANCES ENTITLED “PUBLIC HEALTH AND SAFETY”; CREATING A NEW ARTICLE V WITHIN CHAPTER 99 OF THE CODE TO BE ENTITLED “PROHIBITION OF SMOKING AT PUBLIC BEACHES AND PARK PROPERTY”, PROVIDING FOR THE PROHIBITION OF SMOKING AT PUBLIC BEACHES AND PARK PROPERTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING THE SCHEDULE OF CIVIL PENALTIES AND MISCELLANEOUS FEES IN CHAPTER 14 OF THE CODE; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Sunny Isles Beach (“the City”) is committed to public health and safety; and

WHEREAS, the use of tobacco for smoking purposes is being found to be increasingly dangerous, not only to the person smoking but also to the nonsmoking person who is required to breathe the contaminated air; and

WHEREAS, a pervasive intrusion of a non-smoker’s right to unpolluted air space is the uncontrolled smoking on public beaches and parks; and

WHEREAS, the City is committed to keeping its beaches and parks clean, safe, and healthy for everyone; and

WHEREAS, smoking is hazardous to health and numerous studies have shown that secondhand smoke is a significant public health hazard; and

WHEREAS, the United States Environmental Protection Agency (EPA) has classified secondhand smoke as a Group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, exposure to second smoke substantially increases the risk in non-smokers of lung cancer, cardiovascular disease and other acute and chronic health conditions; and

WHEREAS, the United States Centers for Disease Control and Prevention (CDC) has found that secondhand smoke causes children to suffer from lower respiratory tract illnesses, such as bronchitis and pneumonia, exacerbates childhood asthma, and increases the risk of chronic middle ear infections in children; and

WHEREAS, discarded cigarette and cigarette butts contain the same chemicals and toxins as the cigarettes themselves, and when discarded, are unsightly, unclean, and particularly hazardous to small children who handle and sometimes ingest them; and

WHEREAS, cigarette butts are a significant pollutant on beaches and, if uncollected, may wash directly into ocean water to the detriment of marine life and all ocean users; and

WHEREAS, cigarette butts do not biodegrade and they contain 200 known poisons, 63 of which are shown to cause cancer; and

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

WHEREAS, prohibiting smoking and the improper disposal of tobacco products on public beaches and parks within the City, is necessary to protect the public health, safety, and welfare of all residents and visitors; and

WHEREAS, the City Commission wishes to protect the health, safety and welfare of its residents and visitors by prohibiting smoking on public beaches and parks within the City; and

WHEREAS, the City Commission has determined that prohibiting smoking on public beaches and City parks is in the best interest of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:¹

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amendment of Chapter 99 and Creation of Article V. Chapter 99, “Public Health and Safety,” of the Code of Ordinances of the City of Sunny Isles Beach is hereby amended to read as follows:

Chapter 99 – PUBLIC HEALTH AND SAFETY

ARTICLE V. PROHIBITION OF SMOKING AT PUBLIC BEACHES AND PARK PROPERTY.

§ 99-xx. - Definitions. For purposes of this Article V, the following words, terms and phrases including their respective derivatives, have the following meanings:

TOBACCO PRODUCTS includes loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing or chewing. Unfiltered cigars are specifically exempted from the definition of Tobacco Products.

PUBLIC BEACH means any publicly owned or controlled areas lying east of the private property line (boundary line) namely the ROS (Recreational Open Space) District on the east side of the MUR District, and their respective parking lots, concession areas, and

¹ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

other public facilities. For purposes of this Article, *Public Beach or Public Beaches* includes public beach access, which includes the nonexclusive, publicly accessible, open air and unenclosed landscaped hard surface area easement linking Collins Avenue to the Oceanfront beach.

PARK PROPERTY — Covers all parks, parkways, playgrounds, recreational fields, auditoriums, buildings, athletic or recreational facilities, including but not limited to any playing field, ball field, basketball court, tennis court, or playground which is owned, leased, or operated by the City, and their respective parking lots, concession areas and other facilities.

SMOKING means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, and any other lighted tobacco product. Unfiltered cigars are specifically exempted from the definition of Smoking.

§ 99-xx. - Smoking at a Public Beach or Park Property Prohibited.

Smoking at a Public Beach or Park Property is prohibited.

§ 99-xx. - Enforcement and Penalties.

- A. Violations of this Article shall constitute a civil infraction and shall be enforced pursuant to Chapter 14 of the Code.
- B. Any person or entity that violates any of the provisions in this Article is subject to the following penalties:
 - (1) Upon a first violation, a mandatory fine of one hundred dollars (\$100.00).
 - (2) Upon a second violation, a mandatory fine of two hundred dollars (\$200.00).
 - (3) Upon a third or subsequent violation, a mandatory fine of five hundred dollars (\$500.00).

Section 3. Amendment of Schedule of Civil Penalties and Miscellaneous Fees. The Schedule of Civil Penalties and Miscellaneous Fees contained in Attachment 1 to Chapter 14 of the Code of Ordinances of the City of Sunny Isles Beach is hereby amended to add the following:

Code Section	Description of Violation	Civil Penalty
<u>99-xx</u>	<u>Smoking at a public beach or park property.</u>	<u>First Violation: \$100</u> <u>Second Violation: \$200</u> <u>Third and Subsequent Violations: \$500</u>

Section 4. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 5. Severability. If any section, subsection, clause, or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 6. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Sunny Isles Beach; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 7. Effective Date. This Ordinance will become effective ten (10) days after adoption at second reading.

PASSED AND ADOPTED on first reading this ____ day of _____ 2022.

PASSED AND ADOPTED on second reading this ____ day of _____ 2022.

Dana Robin Goldman, Mayor

ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Mauricio Betancur, CMC, City Clerk

Edward A. Dion, City Attorney

First Reading

Motion: _____

Second: _____

Vote on First Reading:

Mayor Goldman

Vice Mayor Viscarra

Commissioner Joseph

Commissioner Lama

Commissioner Stuyvesant

Second Reading

Motion: _____

Second: _____

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)

Vote on Second Reading:

Mayor Goldman

Vice Mayor Viscarra

Commissioner Joseph

Commissioner Lama

Commissioner Stuyvesant

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)

____ (Yes) ____ (No)