

ORDINANCE 2024 - 05

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER TWENTY-THREE, ARTICLE I, SECTION 23-2 OF THE FLAGLER COUNTY CODE PROHIBITING SMOKING AND VAPING IN COUNTY PARKS; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 386.209, Florida Statutes, provides that counties may restrict smoking within the boundaries of any public beaches or parks that they own; however, the statute carves out an exception that counties may not restrict the smoking of unfiltered cigars; and

WHEREAS, section 386.209, Florida Statutes, also specifies that counties are not preempted from adopting ordinances imposing more restrictive regulation of vapor-generating devices than is provided in the Florida Clean Air Act, Part II, Chapter 386, Florida Statutes; and

WHEREAS, it is the intent of the Board of County Commissioners to protect visitors to County owned parks from the health hazards of secondhand tobacco smoke and vapor, and the County Commission finds that this Ordinance serves the public interest and is necessary and appropriate to protect public health, safety, and welfare.

WHEREAS, public notice of the adoption of this Ordinance has been provided in accordance with Chapter 125.66(2)(a), Florida Statutes; and

NOW THEREFORE, be it ordained by the Flagler County Board of County Commissioners as follows:

SECTION 1. FINDINGS

The above recitals are incorporated herein as true and correct and establish the legislative intent of this Ordinance.

SECTION 2. FLAGLER COUNTY CODE OF ORDINANCES AMENDMENT

Section 23-2 of the Flagler County Code of Ordinances is hereby amended as follows (additions are shown in underline format, deletions are shown in ~~strikethrough~~ format):

Sec. 23-2. – Prohibited Activities.

It shall be prohibited for any person in a public park or recreation area to:

* * * *

(34) Smoke cigarettes, filtered cigars, or pipes, or use any other devices to inhale smoke from burning tobacco products or to inhale vapor from vapor-generating electronic devices, unless such activities occur in an area designated for smoking or use of vapor-generating electronic device by posted signage. Provided however, this prohibition does not apply to the smoking of unfiltered cigars.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

(a) *Smoke* means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, filtered cigars, pipe tobacco, and any other lighted tobacco product.

(b) *Vapor* means aerosolized or vaporized nicotine or other aerosolized or vaporized substance produced by a vapor-generating electronic device or exhaled by the person using such a device.

(c) *Vapor-generating electronic device* means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or re-lettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

SECTION 4. SEVERABILITY

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way

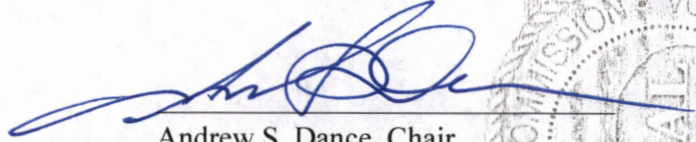
affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE

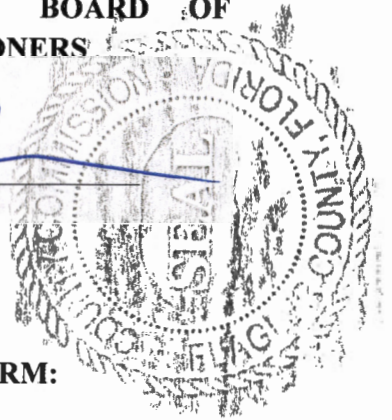
This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

PASSED AND ADOPTED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, THIS 16TH DAY OF SEPTEMBER 2024.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS



Andrew S. Dance, Chair



ATTEST:



Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2024.09.03 14:52:41 -0400
Sean S. Moylan, Deputy County Attorney