

ORDINANCE 2022-23

AN ORDINANCE OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, CREATING CHAPTER 92 OF THE CODE OF ORDINANCES OF THE CITY OF BELLEAIR BLUFFS TO ESTABLISH RESTRICTIONS RELATING TO SMOKING AT CITY PARKS; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR THE PROHIBITION OF SMOKING AT CITY PARKS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR POSTING OF NO SMOKING SIGNS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, smoking at City parks is a danger to health and is a material annoyance, inconvenience, discomfort and health hazard to patrons of City parks; and

WHEREAS, Florida Statute 386.209 provides that the regulation of smoking is preempted to the State and supersedes any county or municipal ordinance on the subject; and

WHEREAS, effective July 1, 2022, Florida Statute 386.209 was revised to allow for counties and municipalities to restrict smoking within boundaries of any public beaches and public parks that they own, except that counties and municipalities may not further restrict the smoking of unfiltered cigars; and

WHEREAS, the City Commission of the City of Belleair Bluffs has determined that it is appropriate to create Code provisions to regulate smoking at City parks; and

WHEREAS, the City Commission has received input from the public at two public hearings.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Chapter 92 of the Code of Ordinances of the City of Belleair Bluffs is hereby created to read as follows:

CHAPTER 92 – RESTRICTIONS RELATING TO SMOKING AT CITY PARKS

Sec. 92-1. – Purpose and definitions.

The purpose of this Chapter is to regulate smoking at City parks. Smoking at City parks is a danger to health and is a material annoyance, inconvenience, discomfort and health hazard to patrons of City parks. This Chapter does not regulate the smoking of unfiltered cigars or other smoking regulations that are preempted to the State of Florida, pursuant to Florida Statute Chapter 386.

City Parks – Any area officially designated by the City Commission as a park and posted as such.

Smoking – Inhaling, exhaling, burning, carrying or possessing any lighted tobacco product, including cigarettes, filtered cigars, pipe tobacco and any other lighted tobacco product.

Sec. 92-2. – Prohibition of smoking within the boundaries of a city park.

It shall be unlawful for any person to smoke within any City park owned and operated by the City of Belleair Bluffs.

Sec. 92-3 – Exceptions.

The provisions of this Chapter shall not apply:

- (a) to the smoking of unfiltered cigars within City parks: or
- (b) to smoking in designated smoking areas within City parks.

Sec. 92-4. – Posting of no smoking signs.

- (a) The City Administrator or designee is authorized to install appropriate signage in all locations where smoking is prohibited.
- (b) Such signage shall consist of “No Smoking” or “Smoke Free” signs with letters not less than 1” in height or the international “No Smoking” symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

Sec. 92-5. – Penalty.

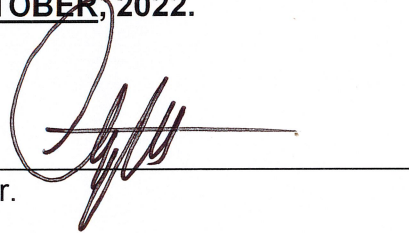
The provisions of this Chapter may be enforced by civil citation punishable by a fine not more than \$100.00 for the first violation and not more than \$500.00 for each subsequent violation.

Section 2. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

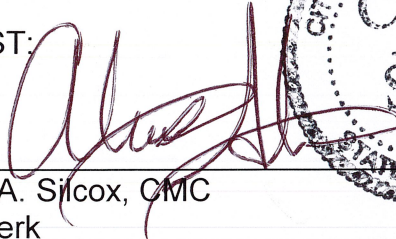
Section 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BELLEAIR BLUFFS, FLORIDA, THIS 17th DAY OF OCTOBER, 2022.



Chris Arbutine, Sr.
Mayor

ATTEST:



Alexis A. Silcox, CMC
City Clerk



PASSED ON FIRST READING:

August 15, 2022
AYE: C. Arbutine, J. Barkley, T. Shimkus, S. Sofer
NAY: S. McNally

PASSED ON SECOND READING:

October 17, 2022
AYE: C. Arbutine, J. Barkley, T. Shimkus, S. Sofer
NAY: S. McNally