

City of South Daytona

Parks and Recreation

504 Big Tree Road • South Daytona, FL 32119 • 386/322-3070



MEMORANDUM

To: James L. Gillis Jr., City Manager

From: Amy Zengotita, Parks and Recreation Director

Re: **Second and Final Reading of Ordinance No. 2022-11.** Amending the City of South Daytona Code of Ordinances, Section 10.5-2 Rules and Regulations for Parks and Recreation Areas to prohibit smoking and vaping in parks. First Reading August 9, 2022. **Public Hearing.**

Date: August 19, 2022

Governor DeSantis signed HB105 on June 24, 2022 which allows for municipalities to prohibit smoking, with the exception of unfiltered cigars, within the boundaries of any public parks. This bill was known as the "Florida Clean Air Act" and was introduced to the legislature to protect the public from the health hazards of secondhand tobacco smoke.

In the past, the city has received numerous complaints regarding adults smoking around kids trying to participate in a sports program at one of our parks. In addition, we receive complaints about adults smoking near playgrounds where kids are playing. Staff has been frustrated when receiving these complaints because we did not have an enforcement tool to remedy the issue.

This issue is not isolated to South Daytona. The City of Daytona Beach Shores has already approved of an ordinance prohibiting smoking in their parks due to constant complaints.

Now that the State of Florida has permitted municipalities to restrict smoking in public parks, staff feels that now is the time to follow our neighboring municipalities' lead in alleviating these routine complaints. Attached is Ordinance No. 2022-11 which prohibits smoking or vaping at all public parks within the City of South Daytona.

This ordinance will be a tool that can be used by staff to prohibit smoking around children and families attempting to participate in a sport or simply playing in our parks. If approved, staff will install signs in each park regarding the smoking prohibition. Every attempt will be made to educate violators and give them an opportunity to stop or relocate before enforcement action is taken.

After first reading on August 9, 2022, City Attorney Vose added language to the amendment to define an "unfiltered cigar" as "a cigar consisting of a roll of tobacco wrapped in leaf tobacco, without a filter and containing only tobacco and no other substance."

Staff recommends Council approve the second and final reading of Ordinance 2022-11.

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES, SECTION 10.5-2 RULES AND REGULATIONS FOR PARKS AND RECREATION AREAS TO PROHIBIT SMOKING AND VAPING IN PARKS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

WHEREAS, Governor DeSantis signed HB105 on June 24, 2022 which allows for municipalities to further restrict smoking within the boundaries of any public parks they own; and

WHEREAS, the City Council has recognized a need to support this bill known as the “Florida Clean Air Act”, which hopes to protect the public from the health hazards of secondhand tobacco smoke; and

WHEREAS, the Council finds the amendment of the code is in the best interest of the protecting the health, safety, and welfare of the residents and guests of the City; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA, THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Adoption. The City Council of the City of South Daytona hereby amends Article VIII of the *City of South Daytona Code of Ordinances*, Section 10.5-2 to read as follows:

Sec. 10.5-2. Rules and regulations for parks and recreation areas.

(a) *Prohibited acts.* It is unlawful and prohibited for persons in or on the premises of any park and recreation area to perform the acts set forth herein below:

(10) Smoking (except for unfiltered cigars) or vaping within any city park. As used in this section, "unfiltered cigar" means a cigar consisting of a roll of tobacco wrapped in leaf tobacco, without a filter and containing only tobacco and no other

~~substance. shall be allowed in all city parks except in designated no smoking areas. No smoking areas shall be identified by appropriate signage which designates the area that smoking is prohibited. No smoking areas shall be designated by the city manager or designee.~~

SECTION 3. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

SECTION 4. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Code of Ordinances and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 9th day of August 2022 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the ____ day of _____ at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney