

Prepared by: City Clerk

**ORDINANCE NO. 2017-03**

**AN ORDINANCE OF THE CITY OF VENICE FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 46, PARKS AND RECREATION; ARTICLE III, CONDUCT IN PARKS, SECTION 46-61, PENALTY; REMOVING SECTION 46-68, SMOKING PROHIBITED ON BEACHES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, on November 10, 2010, Ordinance No. 2010-20 was adopted by the Venice City Council to prohibit smoking in public beach parks and on public beaches; and

**WHEREAS**, thereafter, the State of Florida enacted Florida Statute 386.209 that preempts regulation of smoking to the state and supersedes any municipal or county ordinance; and

**WHEREAS**, the city wishes to conform to the requirements of state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:**

**SECTION 1.** Ordinance No. 2010-20 is hereby repealed.

**SECTION 2.** Chapter 46, Parks and Recreation, Article III, Conduct in Parks, Section 46-61, Penalty, is amended to read as follows:

**Sec. 46-61. Penalty.**

(a) Any person who violates any provision of this article, ~~with the exception of section 46-68,~~ shall, upon conviction thereof, be punished as provided in section 1-14.

~~(b) Any person who violates section 46-68 is subject to a civil fine in the amount of \$97.00 plus any additional costs imposed by state or local law, including court costs that may be imposed as provided by law.~~

**SECTION 3.** Chapter 46, Parks and Recreation, Article III, Conduct in Parks, Section 46-68, Cigarettes, cigars and tobacco products prohibited; enforcement, remedies and penalties, is deleted in its entirety as follows:

~~**Sec. 46-68. Cigarettes, cigars and tobacco products prohibited; enforcement, remedies and penalties.**~~

~~(a) The use of cigarettes, cigars or any tobacco product is prohibited at any public beach or public beach park within the city limits, excluding leasehold properties and designated smoking areas as identified in section 3 of this ordinance. For purposes of this section, Beach means that sandy or rocky area seaward of the erosion control line or mean high water line and all area seaward of a gulf front property owner's property line or mean high water line. Public beach means any beach within the corporate limits of the city located on property owned by the city. Public Beach Park means any parkland contiguous to a public beach or separated by a roadway from a public beach, including parking areas, piers, docks, jetties, boat ramps, or similar structures associated with the public beach park.~~

~~(b) City police officers and any other law enforcement officer authorized to enforce city ordinances shall have the duty and authority to enforce this section by the issuance of a citation~~

to the alleged violator in substantially the following form:

CIVIL VIOLATION  
CITY OF VENICE, FLORIDA

TO NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

DATE/TIME OF CITATION/ISSUANCE

(Month) \_\_\_\_\_ (Day) \_\_\_\_\_

(Year) \_\_\_\_\_ (Time) \_\_\_\_\_

LOCATION: \_\_\_\_\_

CODE NO. OR SECTION VIOLATED:

\_\_\_\_\_  
\_\_\_\_\_

PENALTY/FINE AMOUNT: \_\_\_\_\_

DESCRIPTION OF VIOLATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

POLICE OFFICER: \_\_\_\_\_

~~The fine imposed by this citation may be paid in person at, or mailed to, the City of Venice, City Hall, 401 West Venice Avenue, Venice, Florida 34285, within 30 days from the date of the citation. Payment must be made by cash, money order or certified check. Your failure to either pay the fine or to contest the citation within 30 days from the date of the citation shall constitute an admission by you of the violation and shall entitle the city to the entry of a judgment against you in the amount of the fine, attorney fees, court costs and any other fees and charges allowed by law.~~

~~(c) Notwithstanding any other provisions of this section for enforcement or penalties, the city may also enforce this article by actions at law or in equity for damages and injunctive relief, and, in the event the city prevails in any such action, the city shall be entitled to an award of its costs and reasonable attorneys' fees.~~

**SECTION 4.** Chapter 46, Parks and Recreation, Article III, Conduct in Parks, Section 46-69, Designated smoking area for parks, is deleted in its entirety as follows:

~~Sec. 46-69. Designated smoking area for parks.~~

~~The designated smoking area for Chauncy Howard Park shall be between the park entrance and the no smoking sign. The designated smoking areas for the following shall be the parking lots as depicted on the maps attached and incorporated herein as Exhibit "A."~~


- ~~1. Venice Public Beach Park~~
- ~~2. Brohard Public Beach Park~~
- ~~3. Service Club Park~~
- ~~4. Maxine Barritt Park~~
- ~~5. Paw Park~~
- ~~6. South Brohard Park~~

**SECTION 5.** Severability. If for any reason a provision of this Ordinance or the application thereof to any person, group of persons, or circumstances is held invalid, the invalidity shall not effect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are severable.

**SECTION 6.** Effective Date. This Ordinance shall take effect immediately upon its adoption, as required by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 14th DAY OF FEBRUARY, 2017.**

First Reading: January 24, 2017  
Final Reading: February 14, 2017

  
John W. Holic, Mayor

ATTEST:


  
Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 14th day of February 2017, a quorum being present.

WITNESS my hand and the official seal of said City this 14<sup>th</sup> day of February 2017.

  
Lori Stelzer, MMC, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_

City Attorney