

ORDINANCE NO. 23-02-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES TO PROHIBIT SMOKING IN CITY-OWNED PUBLIC PARKS AND CITY-OWNED PUBLIC BEACHES; AMENDING CHAPTER 15 “PARKS AND RECREATION”, SECTION 15-38, “BEHAVIOR”, OF THE CODE OF ORDINANCES; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 386, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the tranquility, and orderly and safe use of City beaches is of prime importance to the city, its citizens and visitors; and

WHEREAS, the City Code of Ordinances, Chapter 15, “Parks and Recreation,” Section 15-38, “Behavior,” identifies prohibited acts within parks and beaches located within the City; and

WHEREAS, Chapter 2022-213, Laws of Florida, enacted and signed into law by the Governor on June 24, 2022, effective July 1, 2022, amended the Florida Clean Air Act (Chapter 386, part II, Florida Statutes) to provide that counties and municipalities may restrict smoking within the boundaries of any public beaches and public parks they own; and

WHEREAS, the legislation amends § 386.209, Florida Statutes, to expressly provide that counties and municipalities may further restrict smoking within the boundaries of any public beaches and public parks the local government owns, with the exception of restrictions on the smoking of unfiltered cigars which is preempted to the State; and

WHEREAS, cigarette butts are one of the most commonly found items of litter on Florida’s beaches; and

WHEREAS, the litter caused by those who improperly dispose of filtered cigars and cigarette butts or other tobacco products on the public beach and in public parks is difficult to remove from the beaches, can cause ingestion hazards to wildlife, can significantly detract from a healthy environment, and reduce the enjoyment of the City’s public beaches and parks for those

individuals and families who want to enjoy a healthy environment, free of smoking-related pollution and hazards; and

WHEREAS, research conducted by the Ocean Conservancy, a nonprofit environmental advocacy group, has found that cigarette butts are the fourth most harmful type of litter to marine life due to ingestion and contamination of the environment, and thus harm seabirds, sea turtles and marine mammals; and

WHEREAS, the City Council desires to protect the aesthetic beauty and environmental health of the City’s public parks and beaches; and

WHEREAS, in addition to the harmful impact of litter, the Florida Legislature has found in § 386.202, Florida Statutes, that the intent of the Florida Clean Air Act is to protect people from the health hazards of secondhand tobacco smoke and vapor and to implement the Florida health initiative in s. 20, Art. X of the State Constitution; and

WHEREAS, the Florida Legislature in its staff analysis further notes that exposure to secondhand smoke can cause numerous health problems and has been causally linked to cancer and to other potentially fatal diseases. Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker; and

WHEREAS, the City Council finds that this Ordinance serves the public interest and is necessary and appropriate to protect public health, safety, and welfare of its citizens and visitors.

WHEREAS, the City Council hereby bans smoking at City parks and beaches, consistent with Section 16-43(c) Okaloosa County Code of Ordinances to facilitate safe, effective and consistent public safety measures at City beaches for the benefit of residents and visitors alike; and

WHEREAS, the City Council has determined that this ordinance is in the best interests of the City and its citizens; and

WHEREAS, two public hearings have been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol * represents sections of the Code of Ordinances that have been skipped and remain unchanged.**

SECTION 3. AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES, SECTION 15-38, “BEHAVIOR” TO PROHIBIT SMOKING/VAPING AT CITY-OWNED PUBLIC PARKS AND CITY-OWNED PUBLIC BEACHES.

Chapter 15 of the Code of Ordinances is hereby amended as follows:

CHAPTER 15 - PARKS AND RECREATION.

Sec. 15-38. - Behavior.

No person in a park shall:

(a) *Fireworks and explosives.* Have brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. Nothing herein shall be interpreted, applied or enforced in a manner which might constitute the regulation of the use or possession of a firearm, an area of regulation which is preempted to the state by F.S. § 790.33. Exceptions to this item may be made by the city manager for properly licensed professional pyrotechnics providers.

(b) *Domestic animals.* Have been responsible for the entry of a dog or other domestic animal into areas other than the Destin Dog Park or other official city dog park, automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in This Area." Nothing herein shall be construed as permitting the running of dogs at large except for those located within the Destin Dog Park or other official city dog park. All dogs in those areas where such animals are permitted shall be restrained at all times, except for those located within the Destin Dog Park or other official city dog park, on adequate leashes not greater than four (4) feet in length. This section shall not apply to any dog trained to aid disabled or handicapped persons, when any such dog is actually being used to assist any such person.

(c) *Reservation of facilities.* Occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the city.

(d) *Fires.* Build or attempt to build a fire except in such areas designated for fires. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

(e) *Closed areas.* Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.

(f) *Loitering and boisterousness.* Sleep or protractedly lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace. Nor operate any audio device that can be heard by a person using normal hearing facilities, at a distance of one hundred (100) feet or more from the source of the sound except for equipment used by law enforcement, rescue or beach safety personnel, city personnel or at city approved special events.

(g) *Interference with permittees.* Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit.

(h) *Possession or use of glass or ceramic containers.* Possess or use any glass or ceramic container at, in or on the beaches, public parks or public recreational lands in the city.

(i) *Smoking and vaping within City-owned public parks and public beaches.* It shall be prohibited for any person in or on any City-owned public park or public beach to smoke, burn, ignite, inhale, exhale or consume any cigarette, pipe, lighted tobacco product, electronic cigarette, or vapor producing device other than an unfiltered cigar.

SECTION 4. INCORPORATION INTO CITY CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion 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 become effective upon its adoption by the City Council and signature by the Mayor.

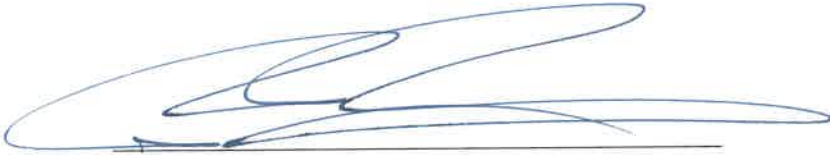
(Signature page follows)

ADOPTED THIS 6TH DAY OF MARCH 2023
BY:



Bobby Wagner, Mayor

ATTEST:



Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City LandUse Attorney, for the City of Destin, only.

Kimberly Romano Kopp, City Land Use Attorney

First Reading: February 6, 2023
Second Reading: March 6, 2023