

ORDINANCE NO. 1628

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA RELATING TO THE USE OR SMOKING OF TOBACCO PRODUCTS, INCLUDING E-CIGARETTES, AT CITY PARKS AND AT ALL CITY FACILITIES AND PROPERTIES; PROVIDING FOR AMENDMENT TO SECTION 33-25 (g) (2), CITY CODE; PROVIDING FOR PROHIBITIONS; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS:

SECTION ONE. LEGISLATIVE FINDINGS AND INTENT; DELEGATION TO CITY MANAGER. New provisions of the *Code of Ordinances of the City of Oviedo* are created to read as follows:

(a). The City Council of the City of Oviedo hereby finds and determines with regard to City facilities, City properties, and City parks which are located within the City that:

(1). Such facilities, properties, and parks attract people and families who travel from near and far to enjoy the City facilities, City properties, and City parks, and engage in healthy recreational or fitness-related activities at such locations;

(2). The litter caused by those who improperly dispose of cigar and cigarette butts or other tobacco products on City facilities, City properties, and City parks is difficult to remove and can lead to severe burns and/or ingestion hazards to facility and park patrons and wildlife, can significantly detract from a healthy environment, and reduce the enjoyment of the City's facilities, City properties, and City parks for those individuals and families who want to enjoy a healthy environment, free of smoking-related pollution and hazards as well as the proven dangers from second-hand smoke, as well as any potential dangers resulting from the use of e-cigarettes;

(3). The City Council of the City of Oviedo desires to promote and enhance a healthy environment at City facilities, City properties, and City parks for the safe enjoyment by all individuals by prohibiting smoking, as well as the use or consumption of all tobacco products and e-cigarettes, in and upon City facilities, City properties, and City parks; and

(4). The recreational and other services provided to the public by the City are essential to the quality of life in the City; and

(b). The City Manager is hereby delegated authority to adopt administrative rules that are deemed necessary to implement the provisions of this Ordinance and to take other

implementing administrative actions. The City Manager may delegate such authority to a designee or designees.

SECTION TWO. SMOKING IN CITY PARKS, PROPERTIES AND FACILITIES. New provisions of the *Code of Ordinances of the City of Oviedo* are created to read as follows:

(a). Smoking or holding lighted tobacco products, including the use of e-cigarettes, and use or consumption of tobacco products, in or upon parks, properties or facilities under the control and management of the City Council of the City of Oviedo is prohibited and unlawful. It is prohibited and unlawful for any person to smoke or carry a lighted cigar, cigarette, cigarillo or pipe, or use any sparks, flame, match or fire-producing device normally used in tobacco smoking, or, to use or consume tobacco products, including e-cigarettes, in any park, property, or facility under the control and management of the City Council. The City Manager, or designee(s), shall post signs reading "Smoking Prohibited by Law", which shall be conspicuously displayed in all appropriate locations.

(b). The provisions of this Ordinance shall be enforced consistent with the controlling provisions of Florida law.

SECTION THREE: AMENDMENT TO SECTION 33-25 (g) (2), CITY CODE. The provisions of Section 33-25 (g) (2) of the *Code of Ordinances of the City of Oviedo, Florida* are amended to read as follows:

Sec. 33-25.- Prohibitions

(a) ***

(f) ***

(g) *Alcoholic beverages/tobacco product.*

(1) ***

(2) It is unlawful for a person to possess or consume any tobacco product, including e-cigarettes, in or upon certain areas of city parks, facilities, or properties, as set forth in either the City Code, or, the rules promulgated by the City. All recreation and parks facilities shall be tobacco and drug free zones.

SECTION FOUR. SAVINGS. The prior actions of the City of Oviedo relating to the regulation of smoking and related matters, programs, projects, actions and activities are hereby ratified and affirmed.

SECTION FIVE. ENFORCEMENT AND PENALTIES. Violations of this Ordinance are subject to enforcement in accordance with controlling law and the penalties as set forth in Section 1-13 of the *City Code*.

SECTION SIX. CONFLICTS. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed and the *City Code* codifier is hereby directed to take all actions necessary to implement the provisions of this Ordinance in that regard.

SECTION SEVEN. 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 EIGHT. CODIFICATION. It is the intention of the City Council of the City of Oviedo, Florida, and it is hereby ordained, that the provisions of this Ordinance shall be codified into the *Code of Ordinances of the City of Oviedo*; provided, however, that Sections Four, Five, Six, Seven, Eight and Nine shall not be codified. Additionally, the Code codifier shall have liberal authority to codify the provisions of this Ordinance.

SECTION NINE. EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

FIRST READING: September 21, 2015

SECOND READING: October 5, 2015

PASSED AND ADOPTED this 5th day of October, 2015.

DOMINIC PERSAMPIERE
MAYOR of the City of Oviedo, Florida

ATTEST:

BARBARA J. BARBOUR
CITY CLERK

