

ORDINANCE NO. 23-23

AN ORDINANCE OF THE CITY OF COOPER CITY, FLORIDA, AMENDING CHAPTER 12 OF THE CITY'S CODE OF ORDINANCES, ENTITLED, "PARKS AND RECREATION;" BY SPECIFICALLY AMENDING ARTICLE III, SECTION 12-45, ENTITLED "NUISANCES AND BEHAVIOR;" PROHIBITING SMOKING AT PUBLIC PARKS WITHIN THE CITY OF COOPER CITY; AMENDING CHAPTER 13 OF THE CITY'S CODE OF ORDINANCE, ENTITLED "PUBLIC SAFETY," BY SPECIFICALLY AMENDING ARTICLE VI, SECTION 13-82, ENTITLED "CITATIONS – OPTIONS OF PERSONS CITED;" PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the United States Centers for Disease Control and Prevention (the "CDC") has documented the dangerous health effects caused by smoking and exposure to second hand smoke; and,

WHEREAS, the University Health Services Department at the University of California, Berkeley provides that cigarette butts can include many toxic or harmful chemicals including formaldehyde, nicotine, arsenic, and lead; and,

WHEREAS, the National Institute of Health estimates that 9.7 billion cigarette butts are littered in the United States each year; and,

WHEREAS, on June 17, 2022, Governor Ron DeSantis signed House Bill 105 ("HB 105"), amending the Florida Clean Indoor Act to allow counties and municipalities to prohibit smoking at parks, subject to certain conditions; and

WHEREAS, HB 105, codified as Sec. 386.209, F.S., authorizes municipalities to restrict smoking within the boundaries of any public parks owned by the municipality or that are county-owned, but within a municipality's jurisdiction, unless such restriction conflicts with an existing county ordinance; and

WHEREAS, the City's professional staff has confirmed that Broward County has taken no action to regulate smoking at Brian Piccolo Park; and

WHEREAS, Sec. 386.209, F.S., prohibits municipalities from restricting the use of unfiltered cigars within public parks belonging to the municipality; and

WHEREAS, the City Commission has held a public hearing and considered the input of the public related to the prohibition of smoking at public parks in the City of Cooper City ("City"); and

WHEREAS, the City Commission has determined that prohibiting smoking within all public parks in Cooper City, including Brian Piccolo Park and all City-owned parks, is in the best interest of the health, safety, and welfare of its citizens and residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amended. That Chapter 12, entitled "Parks and Recreation," of the City of Cooper City Code of Ordinances is hereby amended by specifically amending Article III, Section 12-45, entitled "Nuisances and Behavior" as follows:

Sec. 12-45 Nuisances and behavior

...

~~(c) Tobacco products. It shall be unlawful for any person to smoke cigarettes, filtered cigars, pipes or any other tobacco, tobacco products, nicotine vaporizers, electronic cigarettes, liquid nicotine, or any other smoking apparatus within all public parks in Cooper City, including Brian Piccolo Park and all City-owned parks. In accordance with Sec. 386.209, F.S., as may be amended from time to time, this prohibition shall not apply to unfiltered cigars. No person shall be permitted to smoke cigarettes, cigars and/or pipes or consume any other types of tobacco products within the property boundary lines of Bill Lips Sports Complex, the Cooper City Sports Complex and Pioneer Middle School athletic fields, except smoking shall be permitted in specially marked and designated smoking areas located within Bill Lips Sports Complex, the Cooper City Sports Complex and Pioneer Middle School athletic fields. The prohibited areas include, but are not limited to, playing fields, courts, rinks, pools, team seating areas or dugouts, bleacher or spectator areas, playgrounds, concession stands and restrooms.~~

SECTION 3. City Code Amended. That Chapter 13, entitled “Public Safety,” of the City of Cooper City Code of Ordinances is hereby amended by specifically amending Article VI, Section 13-83, entitled “Citations – Options of Persons Cited” as follows:

Sec. 13-83 Citations – Options of Persons Cited

(c) The following table sets forth the code violation for which civil penalties may be cited under this section. The descriptions of violations are provided for purposes of general identification only. Where specific code provisions apply, the same are indicated following the respective violation description. Amendments affecting the numbering of the referenced sections shall not affect the validity of the fines.

<i>Violation</i>	<i>Code Section</i>	<i>Fine</i>
...		
<u>Smoking in Parks</u>	<u>12-45</u>	<u>\$100.00</u>

For all other violations not specified in this the fine schedule for the first violation shall be \$250.00 for a first violation. The fines set forth in this section shall apply if there is a conflict with any other section of the code. If a repeat violation of any code occurs, the Code Enforcement Officer may assess a fine up to \$500.00, for the violation.

SECTION 4. Conflict. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

SECTION 6. Codification. It is the intention of the City Commission of the City of Cooper City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Cooper City, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 7. Effective Date. This Ordinance shall become effective upon passage and adoption.

PASSED AND ADOPTED on First Reading this 10th **day of** October, 2023.

PASSED AND FINAL ADOPTION on Second Reading this 24th **day of** October, 2023.

ATTEST:


TEDRA ALLEN, MMC

Approved as to Legal Form:


JACOB G. HOROWITZ
City Attorney


MAYOR GREG ROSS

ROLL CALL

Mayor Ross
Commissioner Green
Commissioner Shrouder
Commissioner Katzman
Commissioner Mallozzi

