

**ORDINANCE NO. 2023-2267**

**AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF ARTICLE I OF CHAPTER 16, OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO GENERAL REGULATION OF CITY PARKS; PROVIDING FOR A NEW SECTION 16-7, PROVIDING FOR PROHIBITION OF SMOKING IN CITY PARKS; PROVIDING EXCEPTIONS FOR SPECIAL EVENTS; PROVIDING FOR DEFINITIONS OF TERMS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

WHEREAS, smoking within public parks in the City of New Port Richey, Florida is a nuisance and injurious to the health and safety of children and adults within the parks; and

WHEREAS, smoking within public parks is a detriment to the public health, safety, welfare and quality of life of the residents of the City; and

WHEREAS, Section 386.209 Florida Statutes has been amended by Section 2022-213 Laws of Florida to remove state preemption over municipal prohibition of smoking in municipal public parks; and

WHEREAS, the City Council wishes to ban smoking in the City's public parks; and

WHEREAS, smoking during special events should be allowed in conjunction with the authorization of alcohol sales and consumption authorized during such events; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police powers.

**NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:**

**SECTION 1. Chapter 16, Article I, of the Code of Ordinances, pertaining to general park regulations, is hereby amended to add Section 16-7, as follows (strikeout text is deleted and underlined text is added):**

**Sec. 16-7 Smoking in public parks prohibited.**

(a) Smoking, as defined herein, is prohibited in all public parks of the City and it shall be unlawful and a violation hereof for any person to engage in smoking within the boundaries of any public park within the City at any time, except as provided herein.

(b) For the purpose of this section, the term “smoking” shall mean inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, pipe tobacco, and any other lighted tobacco product other than unfiltered cigars.

(c) For the purpose of this section, the term “public park” shall mean any property owned by the City designated by signs, resolution or ordinance by use of the term “park” in any manner, and shall include the entire area of said property to the boundary line of any adjacent public or private property, including rights-of-way.

(d) The city manager shall post signs in areas and in the manner deemed appropriate to advise the public of the prohibition in this section.

(e) This section shall not apply during special events authorized by the City in any area where alcohol sales and consumption are authorized, during the period of time and in the locations where such alcohol sales and consumption are specifically authorized. If the City establishes a designated smoking area during any special event, the exception provided by this subsection shall apply only in such designated smoking area.

**SECTION 2. Enforcement.** The provisions of this Ordinance shall be enforced as otherwise provided in the Code of Ordinances.

**SECTION 3. Conflict with Other Ordinances and Codes.** All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

**SECTION 4. Severability.** If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**SECTION 5. Effective Date.** This ordinance shall take effect immediately upon its adoption as provided by law.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 6<sup>th</sup> day of April, 2023, and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 2<sup>nd</sup> day of May, 2023.

ATTEST:

By: \_\_\_\_\_  
Judy Meyers, CMC, City Clerk

By: \_\_\_\_\_  
Alfred C. Davis, Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE SOLE  
USE AND RELIANCE OF THE CITY OF NEW PORT RICHEY,  
FLORIDA:

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Timothy P. Driscoll, City Attorney

CA Approved 4/13/23