

CITY OF SANIBEL
DRAFT ORDINANCE 26-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, EXPANDING THE PROHIBITION OF SMOKING, TO INCLUDE VAPING, WITHIN ALL PUBLIC PARKS AND PUBLIC BEACHES OWNED BY THE CITY OR LEE COUNTY WITHIN THE CITY'S JURISDICTION, BY AMENDING SANIBEL CODE OF ORDINANCES CHAPTER 36, HEALTH AND SANITATION, ARTICLE III, SMOKING PROHIBITIONS, DIVISION 1, BY ADDING A NEW SECTION 36-67, DEFINITIONS AND AMENDING DIVISION 2, TOBACCO FREE PUBLIC SPACE, SECTION 36-78, THE CITY OF SANIBEL COMMUNITY PARK; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS; Section 386.209, Florida Statutes, preempts local governments from imposing restrictions on the smoking of unfiltered cigars but otherwise authorizes a municipality to restrict smoking within the boundaries of any public beaches and public parks owned by the municipality or which are owned by the county but are within the jurisdiction of the municipality; and

WHEREAS, the City Council has determined it is in the interest of public health, safety, and welfare that the City's existing smoking prohibition ordinance, codified within Sanibel Code Chapter 36, Article III, be amended to expand the prohibition of smoking that currently exists solely within Community Park to prohibit smoking and vaping at all public parks and public beaches owned by the City of Sanibel or Lee County, which are within the City's jurisdiction, in accordance with Section 386.209, Florida Statutes.

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

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Chapter 36, Code of Ordinances, is hereby amended with ~~strikethrough~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 36 – HEALTH AND SANITATION

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ARTICLE III. – SMOKING PROHIBITIONS

DIVISION 1. - IN GENERAL

Sec 36-67. – Definitions

- (a) Smoke means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, with the exception of unfiltered cigars.
- (b) Vape means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess an electronic device that is actively producing vapor or aerosol from a nicotine product or other substance.

Secs. 36-687 – 36-77. - Reserved.

DIVISION 2. – SMOKE TOBACCO-FREE PUBLIC SPACE**Sec. 36-78. – Public beaches and parks. ~~The city of sanibel community park.~~**

(a) The city council hereby establishes and designates the entirety of ~~the public beaches and public parks owned by the City of Sanibel and those public beaches and parks owned by Lee County but which lie within the city's jurisdiction~~ ~~Community Park located at 2221 Periwinkle Way, including but not limited to, the playground area, as a~~ ~~as smoke and vape tobacco~~ free public space and the use ~~and/or disposal~~ of any and all ~~smoke and vape tobacco~~ products at or on such ~~community park~~ property is hereby prohibited and is a violation of this article. The prohibition established herein shall be applicable at all times, without exception, and any special events permit issued for any activity at ~~such properties the community park~~ shall be subject to the prohibition set forth herein.

(b) The public beaches and parks subject to this regulation include, without limitation, the following:

Sanibel Community Park;

Pond Apple Park;

Sanibel Gardens Preserve;

Sanctuary Overlook;

Bock Pease Park;

Roadside City Park;

Sanibel Boat Ramp;

Causeway Beach Park;

Bailey Road Beach Access;

Lighthouse Beach Park;

Gulfside City (Algiers) Beach Park;

Tarpon Bay Road Beach Park;

Bowman's Beach Park;

Blind Pass Beach Park; and

Turner Beach Park.

~~City of Sanibel Community Park shall be designated as that generally recognizable and observable park area located at 2221 Periwinkle Way in the City of Sanibel and shall include and encompass, but not be limited to, all play fields and equipment, spectator stands, concession areas, restroom areas, walking or congregating areas, parking areas, gardens or landscaped areas, and all intervening spaces. This area, or portions of this area, may at times be fenced, but fencing shall not be a requirement for defining the park area.~~

Sec. 36-79. - Penalty and enforcement.

(a) Any person who violates this article, for a first offense, is subject to a civil fine in the amount of \$50.00, plus any additional costs imposed by State or local law, including court costs that may be imposed as provided by law.

(b) For a second violation or subsequent violations, this article shall provide for those penalties set forth in section 1-15 of the City of Sanibel Code of Ordinances, and for all means of enforcement and alternative enforcement set forth in such section.

SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severance. 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 portion or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective
