LEE COUNTY ORDINANCE NO. 25-14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 20 (PARKS AND RECREATION), ARTICLE II (PUBLIC CONDUCT IN COUNTY PARKS); PERTAINING TO SMOKING AND VAPING AT PUBLIC PARKS AND PUBLIC BEACHES; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Board of County Commissioners of Lee County, Florida (the "Board") is the governing body in and for Lee County, Florida; and

WHEREAS, the Board is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, the Board has adopted Ordinance 18-12, which was amended by Ordinance 18-27 and Ordinance 20-11, pertaining to public conduct in county parks (the "Lee County Parks and Recreation Ordinance"); and

WHEREAS, on August 1, 2023, the Board adopted the "Code of Ordinances of Lee County, Florida," as the official codification of all ordinances of a general and permanent nature; and

WHEREAS, the Lee County Parks and Recreation Ordinance has been codified in the Lee County Code of Ordinances at Chapter 20, Article II; and

WHEREAS, the Board has determined that it is in the interest of the public health, safety and welfare that the Lee County Parks and Recreation Ordinance be amended to prohibit smoking and vaping at all public parks and public beaches, in accordance with Florida Statutes Section 386.209, as amended.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida that in order to promote the public health, safety and welfare of the citizens of Lee County, Florida the following Ordinance is hereby enacted:

SECTION ONE: AMENDMENT TO CODE OF ORDINANCES, CHAPTER 20

The Code of Ordinances of Lee County, Chapter 20 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 20 – PARKS AND RECREATION

ARTICLE II. – PUBLIC CONDUCT IN COUNTY PARKS

Sec. 20-28. Conduct.

[Subsection (a) remains unchanged.]

(b) *Smoking*. Pursuant to F.S. Ch. 386, Florida Clean Indoor Air Act, as amended from time to time, no person shall smoke or vape within the confines of any school property or within the boundaries of any public ~~indoor~~ park ~~facility~~ or public beach. ~~No e-cigarette or vaping use is permitted on school property or indoor park facility.~~

1) The term "smoke" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, with the exception of unfiltered cigars.

2) The term "vape" means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

[Remainder of subsection is unchanged.]

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code of Ordinances. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Attorney, or the County Manager or his designee, without the need for a public hearing.

SECTION FIVE: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Hamman made a motion to adopt the foregoing ordinance, seconded by Commissioner Mulicka. The vote was as follows:

Kevin Ruane	Aye
Cecil L Pendergrass	Absent
David Mulicka	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 17th day of June, 2025.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Kevin Ruane, Chair BRIAN HAMMAN

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Office of the County Attorney

BOARD OF COUNTY COMMISSIONERS
SEAL
LEE COUNTY, FLORIDA

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee **COUNTY ORDINANCE #:** 25-14

(e.g.,93-001)

PRIMARY KEYFIELD DESCRIPTOR: Smoking & Vaping

SECONDARY KEYFIELD DESCRIPTOR: Parks

OTHER KEYFIELD DESCRIPTOR: Beaches & Shores

ORDINANCE DESCRIPTION: Smoking & Vaping in Parks & Beaches

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: Lee County Code of Ord. Sec. 20-28 **AMENDMENT #2:**

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: ; **REPEAL #3:**

REPEAL #2: ; **REPEAL #4:**

(FOR OFFICE USE ONLY): **COUNTY CODE NUMBER:**

KEYFIELD 1 CODE: **KEYFIELD 2 CODE:**

~~**KEYFIELD 3 CODE:**~~

Rev. 09/11/02
CODING

FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

June 23, 2025

Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 25-14, which was filed in this office on June 23, 2025.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp

RECEIVED
By Latasha Seth at 2:55 pm, Jun 23, 2025

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

VIA HAND DELIVERY

DATE: June 17, 2025

TO: Commissioner Ruane
Chair, Board of County Commissioners

FROM: Amanda L. Swindle
Assistant County Attorney, Senior

RE: **Ordinance No. 25-14**
Public Hearing to Amend Ordinance to Prohibit Smoking & Vaping at County Parks and Public Beaches
Agenda Item 9:30PH60 - June 17, 2025

Attached, approved as to form, please find the original of the above-referenced ordinance adopted by the Board of County Commissioners on June 17, 2025.

The original ordinance is attached to the memorandum for execution. Kindly execute the ordinance at your earliest convenience and then forward to the Records Management Department for filing and transmittal to Tallahassee.

By copy of this memorandum to Claudia Curtin, I request that a clerk attest to the Chair's signature on the attached ordinance and return the fully executed copy with all exhibits to my attention via email.

Insofar as State Statute mandates that the ordinance reach Tallahassee within ten (10) days of the adoption, please expedite the above request so that the ordinance arrives in Tallahassee no later than June 27, 2025. Also attached please find the Data Retrieval form to accompany the ordinance when transmitted to the State.

Thank you for your prompt attention to this matter.

Attachment

VIA EMAIL ONLY:
Samantha Westen, Executive Assistant
Rose Bahena, Administrative Specialist, Senior
Claudia Curtin, Records Program Manager
leeclerkminutes@leeclerk.org
Lauren Schaefer, Legal Administrative Specialist (for ordinance history)

2025 JUN 20 PM 12:52
MINUTES OFFICE
RECEIVED

Lee County
Southwest Florida

AGENDA ITEM REPORT

DATE: June 17, 2025
DEPARTMENT: County Attorney
REQUESTER: Amanda L. Swindle
TITLE: Conduct Public Hearing to Amend Ordinance to Prohibit Smoking, Vaping at County Parks, Public Beaches

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I. MOTION REQUESTED

Conduct Public Hearing to Amend Chapter 20 of the Lee County Code of Ordinances, Parks & Recreation, to Prohibit Smoking & Vaping at County Parks & Public Beaches.

II. ITEM SUMMARY

Currently, Chapter 20 of the Lee County Code of Ordinances prohibits smoking at schools and indoor park facilities. This amendment will expand the prohibition to smoking and vaping at all county parks and public beaches, with certain exceptions, in accordance with Florida Statutes Section 386.209, as amended. The ordinance will continue to be enforced by Parks & Rec, including the appeal process. The fine schedule will continue to be $100, $200, and $300 for a first, second, and third offense.

The Executive Regulatory Oversight Committee reviewed the proposed amendment to the Code on May 14, 2025, and voted 6-1 to recommend its adoption.

III. BACKGROUND AND IMPLICATIONS OF ACTION

Florida Statutes Section 386.209 has generally preempted the regulation of smoking to the state, with certain exceptions, including the ability for local governments to prohibit smoking at schools and indoor park facilities. The statute was amended in 2019 to further allow local governments to prohibit smoking and vaping at all county parks and public beaches. Unfiltered cigars are exempt under the statute.

Currently, Chapter 20 of the Lee County Code of Ordinances prohibits smoking at schools and indoor park facilities. This amendment will expand the prohibition to smoking and vaping at all county parks and public beaches, with certain exceptions, in accordance with Florida Statutes Section 386.209, as amended. The ordinance will continue to be enforced by Parks & Rec, including the appeal process. The fine schedule will continue to be $100, $200, and $300 for a first, second, and third offense.

The Executive Regulatory Oversight Committee reviewed the proposed amendment to the Code on May 14, 2025, and voted 6-1 to recommend its adoption.

IV. FINANCIAL INFORMATION

Current Year Dollar Amount:	No funding required.
Included in the Current Budget?:	N/A
Fund:	N/A
Comments:	

Is this a revenue or expense item? No
Is this Discretionary or Mandatory? Discretionary
Will this item impact future budgets? No
Program:
Project:
Account Strings:
Fund Type?

V. RECOMMENDATION

Approve

ATTACHMENTS:
Smoking Vaping Ordinance, FAIS - Smoking & Vaping, Business Impact Statement - Smoking and Vaping

REVIEWERS:

Sandra Kokotilo, County Attorney	Created/Initiated - 6/4/2025
Amanda Swindle, County Attorney	Approved - 6/5/2025
Richard Wesch, County Attorney	Approved - 6/5/2025
Mack Young, Parks & Recreation	Approved - 6/9/2025
Anne Henkel, Budget Services	Approved - 6/9/2025
Peter Winton, County Manager	Final Approval - 6/9/2025