

ORDINANCE NO. 2003-13

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ENTITLED "SMOKING IN DESIGNATED AREAS PROHIBITED"; PROHIBITING SMOKING AT SPECIFIED LOCATIONS ON TOWN PROPERTY; ESTABLISHING PROCEDURES REGARDING CIVIL INFRACTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, safeguarding the right of residents of the Town of Davie to the quiet enjoyment of the beauty and integrity of clean air at open-air, outdoor municipal parks within the Town of Davie is of significant importance to the residents of the Town of Davie; and

WHEREAS, the Town Council of the Town of Davie recognizes the considerable risk to the public health resulting from second-hand inhalation of smoke emitted from cigarettes, pipes or other smoking apparatuses; and

WHEREAS, the Town Council of the Town of Davie recognizes that second-hand inhalation of smoke emitted from cigarettes, pipes or other smoking apparatuses may be offensive and cause injury to non-smokers who do not wish to inhale second-hand smoke while visiting outdoor municipal parks within the Town of Davie; and

WHEREAS, it is the desire of the Town Council of the Town of Davie to preserve the pristine quality of the air in and around outdoor municipal parks within the Town of Davie and to protect the right of residents of the Town of Davie to the quiet enjoyment of Davie's municipal parks; and

WHEREAS, numerous municipalities within the County have previously enacted ordinances banning smoking in public places; and

WHEREAS, the State of Florida through the constitutional enactment of the Florida Clean Indoor Air Act, has banned smoking in areas of public accommodation; and

WHEREAS, the Town Council determines that the prohibition of smoking in the Town's public parks serves to protect the health, safety and welfare of the citizens and residents of the Town of Davie;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA THAT:

SECTION 1. The aforementioned "WHEREAS" clauses are hereby ratified and confirmed, and incorporated herein.

SECTION 2. Section 16-7 of the Davie Town Code of Ordinances is hereby created to read as follows:

SMOKING PROHIBITED IN OUTDOOR AREAS IN TOWN PARKS.

- 1) It shall be unlawful for any person to smoke cigarettes, cigars, pipes or any other smoking apparatus on playing fields and playgrounds, bleacher areas, dugouts, around team seating areas, concession areas, spectator areas, restrooms, or any other areas not specifically designated as a permitted smoking area within any park owned and operated by the Town of Davie. All designated smoking areas will be specifically demarcated by signs stating that "smoking is permitted in this area."
- 2) Upon an individual's first violation of this Ordinance, a Town Official or law enforcement officer may issue a warning to any person in violation of the provisions of this section. Any refusal by an individual to comply with this

Ordinance upon issuance of a warning may result in a Notice to Appear for the violation and/or removal from the park. Upon the first conviction of this violation, a Court of competent jurisdiction may impose a fine of twenty-five dollars (\$25.00).

- 3) Any subsequent conviction of a violation of this Ordinance may result in additional fines and penalties, including court costs imposed by the Court.
- 4) This section shall not apply to any person smoking within a parking lot located in a Town park.
- 5) The provisions in this Ordinance shall not apply to passive parks, except during events when children are present.

SECTION 3. CODIFICATION.

It is the intention of the Town Council of the Town of Davie that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Davie, Florida, and 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 4. SEVERABILITY.

If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way effecting the validity of the other provisions of this Ordinance.

SECTION 5. CONFLICTS.

All Ordinance 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 6. EFFECTIVE DATE.

This Ordinance shall take effect on July 1, 2003.

PASSED ON FIRST READING THIS 15th day of April, 2003.

PASSED ON SECOND READING THIS 21st day of May, 2003.



MAYOR/COUNCILMEMBER

ATTEST:



TOWN CLERK

APPROVED THIS 21st day of May, 2003.