



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1433

Agenda Date: 8/16/2022

Status: PUBLIC HEARINGS –
SECOND READING

In Control: City Commission

Title

P.H. 2022-075: ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING CHAPTER 50 "PARKS AND RECREATION" OF THE CITY CODE OF ORDINANCES, BY CREATING SECTION 50-115 "SMOKING PROHIBITED" TO PROHIBIT SMOKING AT PUBLIC BEACHES AND PUBLIC PARKS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Recommended Action

Commission to vote on Ordinance

Voting Requirement

Commission to vote on Resolution

Background/History

Chapter 386, Part II of Florida Statutes, the Florida Clean Indoor Air Act, implements Article X, Section 20 of the Florida Constitution, which prohibits a person from smoking tobacco or using a vapor-generating electronic device in an enclosed indoor workplace, with certain exceptions.

Current Activity

On June 24, 2022, the Florida Governor signed into law House Bill 105 ("HB 105"), which amends the Florida Clean Indoor Air Act to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park, except for unfiltered cigars. Prior to the enactment of HB 105, Florida Statutes completely preempted the local regulation of smoking and did not allow counties or municipalities to regulate smoking. HB 105 became effective on July 1, 2022.

Recommendation

Staff recommends consideration and discussion by the City Commission on adopting this ordinance, amending Chapter 50 "Parks and Recreation" of the City Code to prohibit smoking at public beaches and parks.

ORDINANCE NO. 2022

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING CHAPTER 50 “PARKS AND RECREATION” OF THE CITY CODE OF ORDINANCES, BY CREATING SECTION 50-115 “SMOKING PROHIBITED” TO PROHIBIT SMOKING AT PUBLIC BEACHES AND PUBLIC PARKS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

WHEREAS, Chapter 386, Part II of Florida Statutes, the Florida Clean Indoor Air Act, implements Article X, Section 20 of the Florida Constitution, which prohibits a person from smoking tobacco or using a vapor-generating electronic device in an enclosed indoor workplace, with certain exceptions; and

WHEREAS, on June 24, 2022, the Florida Governor signed into law House Bill 105 (“HB 105”), which amends the Florida Clean Indoor Air Act to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park, except for unfiltered cigars; and

WHEREAS, prior to the enactment of HB 105, Florida Statutes completely preempted the regulation of smoking and did not allow counties or municipalities to regulate smoking; and

WHEREAS, HB 105 became effective on July 1, 2022; and

WHEREAS, the City desires to prohibit smoking at public beaches and parks; and

WHEREAS, staff recommends the City Commission adopt this ordinance, amending Chapter 50 “Parks and Recreation” of the City Code to prohibit smoking at public beaches and public parks within the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, AS FOLLOWS:

Section 1. The above “WHEREAS” clauses are true and correct and are made a part of this Ordinance.

Section 2. Chapter 50 “Parks and Recreation” of the City Code of Ordinances is hereby amended to read as follows¹:

Chapter 50 PARKS AND RECREATION

¹ Additions to existing City Code text are shown in underline. Deletions to existing text are shown in ~~striketrough~~. Changes between first and second reading are shaded.

ARTICLE V. RULES AND REGULATIONS

Sec. 50-115. Smoking Prohibited on Municipal Beach and In Public Parks.

Smoking within the boundaries of any municipal/public beach or public park within the City is prohibited to the fullest extent permitted under state law. Any person in violation of this Section shall be fined in an amount not exceeding \$100.

Section 3. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. The provisions of this Ordinance are declared to be severable, and, if any section, sentence, clause and/or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand despite the invalidity of any part.

Section 5. It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code of the City of Deerfield Beach, and that the sections of this Ordinance may be renumbered to accomplish such intent.

Section 6. That this Ordinance shall take effect immediately upon adoption on second reading.

PASSED 1ST READING ON THIS ____ DAY OF _____, 2022.

PASSED 2ND READING ON THIS ____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

**CITY OF DEERFIELD BEACH, FLORIDA
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED that a public hearing will be before the City Commission on **Tuesday, August 16, 2022** at 7:00 p.m. in the City Commission Chambers, City Hall, 150 NE 2nd Avenue, Deerfield Beach, Florida and utilizing communications media technology with some City staff participating through video conferencing via Zoom (virtual meeting), to consider the adoption of the following ordinances:

P.H. 2022-075: ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING CHAPTER 50 "PARKS AND RECREATION" OF THE CITY CODE OF ORDINANCES, BY CREATING SECTION 50-115 "SMOKING PROHIBITED" TO PROHIBIT SMOKING AT PUBLIC BEACHES AND PUBLIC PARKS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Copies of the Ordinances are available for public inspection in the City Clerk's Office, 150 N.E. 2nd Avenue, Deerfield Beach, Florida 33441. All interested persons are urged to attend the Public Hearing(s) in person, virtually, send a representative or express their views by letter.

You may either be present in person at the Public Hearing(s) or attend online or by phone virtually utilizing Zoom, represented by counsel or letter. All interested persons take due notice of the time and place of the Public Hearing(s) and govern yourselves accordingly.

Any person who decides to appeal any decision of the City Commission with respect to any matter considered at this meeting would need a record of the proceedings. And for such purpose, may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may contact the City Clerk's Office at (954) 480-4213 at least 24 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 or 1-800-955-8771.

BY: SAMANTHA GILLYARD, CMC, CITY CLERK

Publish: Sun-Sentinel
Friday, August 5, 2022