

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, ENTITLED "ENVIRONMENT", DIVISION 3 ENTITLED "USE OF BEACHES," BY ADDING SECTION 26-73 TO PROHIBIT SMOKING AND VAPING WITHIN THE BOUNDARIES OF ALL KEY WEST BEACHES; AMENDING CHAPTER 26, DIVISION 4 ENTITLED "USE OF PARKS," BY ADDING SECTION 26-103 TO PROHIBIT SMOKING AND VAPING WITHIN THE BOUNDARIES OF ALL KEY WEST PARKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the U.S. Department of Health and Human Services has found that tobacco smoke contains hundreds of toxic chemicals, including up to 69 that are known carcinogens; and

WHEREAS, exposure to secondhand smoke can cause numerous health problems and has been linked to cancer and other fatal diseases; and

WHEREAS, an estimated two-thirds of cigarette butts are discarded as litter, with the World Health Organization estimating that 4.5 trillion butts are littered every year; and

WHEREAS, cigarette butts are a major contributor to marine plastic and microplastic pollution, and they leach toxic chemicals into the environment, including arsenic, formaldehyde, lead and polyaromatic hydrocarbons; and

WHEREAS, the State of Florida enacted Chapter 2022-213, Laws of Florida, codified as F.S. 386.209, which provides limited authority for a municipality to regulate smoking within the boundaries of county and city-owned parks and beaches; and

WHEREAS, the City Commission of the City of Key West intends to exercise its legislative authority to ban smoking at all City-owned parks and beaches; and

WHEREAS, adding sections 26-73 and 26-102 to the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Sections 26-73 is hereby added to the Code of Ordinances as follows\*:

**Sec. 26-73. - Smoking Prohibited within City-owned public beaches.**

(a) It shall be prohibited for any person within the boundaries of any City-owned public beach to smoke, burn, ignite, inhale, exhale or possess any cigarette, pipe, or other lighted tobacco product other than an unfiltered cigar.

(b) It shall be further prohibited for any person within the boundaries of any City-owned public beach to use vapor-generating devices (for the inhalation of nicotine, CBD or similar non-prescription substances).

(c) Any person who violates subsection (a) or (b) commits a noncriminal violation, punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Section 2: That Section 26-102 is hereby added to the Code of Ordinances as follows:

**Sec. 26-73 102. - Smoking Prohibited within City-owned public parks.**

(a) It shall be prohibited for any person within the boundaries of any City-owned public park to smoke, burn, ignite, inhale, exhale or possess any cigarette, pipe, or other lighted tobacco product other than an unfiltered cigar.

(b) It shall be further prohibited for any person within the boundaries of any City-owned public park to use vapor-generating devices (for the inhalation of nicotine, CBD or similar non-prescription substances).

(c) Any person who violates subsection (a) or (b) commits a noncriminal violation, punishable by a fine of not more than \$100 for the first violation if paid within 10 days and not more than \$500 for each subsequent violation pursuant to the civil citation procedure in Ch. 2, Article VI, Division 3 of the Code of Ordinances.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting  
held this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Read and passed on final reading at a regular meeting  
held this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Authenticated by the presiding officer and Clerk of  
the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Filed with the Clerk \_\_\_\_\_, 2023.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Lissette Carey	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

\_\_\_\_\_  
TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK