

RESOLUTION 17-03

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH ESTABLISHING A SMOKE-FREE USE POLICY APPLICABLE TO TOWN OWNED OR OPERATED PUBLIC FACILITIES AND PROPERTIES; PROVIDING FOR PROHIBITION OF TOBACCO USE; DEFINITIONS; ENFORCEMENT AND AN EFFECTIVE DATE.

WHEREAS, The Town of Fort Myers Beach facilities are intended for the healthy enjoyment of all citizens, including children and adults; and

WHEREAS, The Town of Fort Myers Beach believes that smoking products use in the proximity of children and adults at The Town of Fort Myers Beach facilities is detrimental to their health and can be offensive to those using such facilities; and

WHEREAS, The Town of Fort Myers Beach has a unique opportunity to create and sustain an environment that supports a smoke-free policy, rule enforcement, and adult-peer role modeling on The Town of Fort Myers Beach outdoor recreational facilities; and

WHEREAS, The Town of Fort Myers Beach believes parents, leaders, and officials involved in recreation are role models and can have a positive effect on the lifestyle choices they make; and

WHEREAS, the tobacco industry has a long history of sponsoring and advertising at recreational events to foster a connection between tobacco use and recreation; and

WHEREAS, cigarettes, once consumed in public spaces, are often discarded on the ground, requiring additional maintenance expenses, diminishing the beauty of The Town of Fort Myers Beach's facilities, and posing a risk to wildlife and toddlers due to ingestion; and

WHEREAS, The Town of Fort Myers Beach determines that the prohibition of smoking products use at their facilities serves to protect the health, safety and welfare of the citizens and guests of our Town.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH TOWN COUNCIL AS FOLLOWS:

SECTION 1: Smoking Products PROHIBITED

A. No person may smoke or use tobacco products, including electronic smoking devices, at or on any of the Town of Fort Myers Beach-owned or operated outdoor recreation facilities, including the restrooms, parking lots, and spectator and concession areas. These facilities include Bay Oaks Recreational Campus, Community Aquatic Pool, Playing fields, Playground areas, Newton Park and Mound House.

B. No person may smoke or use tobacco products, including electronic smoking devices, at or on any of the Town of Fort Myers Beach-owned or operated facilities identified in Section 3, including parking lots and public areas associated with these facilities.

SECTION 2. DEFINITIONS

For purposes of this policy, the terms set forth below shall have the following meanings:

1. "Smoking" means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

2. "Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen, or under any other product name or descriptor.

3. "Tobacco Product" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, clove cigarettes or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale or otherwise distributed with the expectation that the product or matter will be introduced into the human body by inhalation; but does not include any cessation product specifically approved by the U.S. Food and Drug Administration for use in treating nicotine or tobacco dependence.

4. "Facilities" means, for purposes of this policy only, any property under the jurisdiction of The Town of Fort Myers Beach as identified below:

- Town Hall at 2525 Estero Boulevard
- Water Plants at 131 Lenell Road and 815 Lagoon Street
- Bay Oaks Recreational Campus at 2731 Oak Street
- Community Aquatic Pool at 2600 Oak Street
- Mound House at 451 Connecticut Street
- Mound House parking lot at 216 Connecticut Street
- Newton Park at 4650 Estero Boulevard

SECTION 3: ENFORCEMENT

- A. Appropriate signs will be posted in the above specified areas.
- B. The community, especially facility users and staff, will be notified about this policy.
- C. Staff will make periodic observations of facilities to monitor for compliance.

- D. Any person found violating (non-compliance) this policy may be subject to immediate ejection from the facility.
- E. Violation/Non-Compliance Strategy:
 - 1. Town of Fort Myers Beach staff will inform non-compliant patron of the smoke-free policy and request the individual to comply with the policy.
 - 2. If the non-compliant patron continues to violate smoke-free policy, Town of Fort Myers Beach staff will ask the individual to leave the facility and Town property.
 - 3. Town of Fort Myers Beach staff will contact Lee County Sheriff's Office if the non-compliant patron refuses to vacate the facility and Town property.

SECTION 4: EFFECTIVE DATE

This Resolution becomes effective immediately upon adoption.

THE FOREGOING RESOLUTION was adopted by the Fort Myers Beach Town Council upon motion by Vice Mayor Hosafros and seconded by Council Member Shamp, and being put to a vote, the result was as follows:

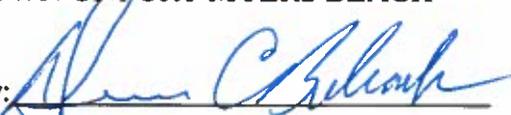
Dennis C. Boback, Mayor	Aye
Rexann Hosafros, Vice Mayor	Aye
Anita Cereceda, Council Member	Aye
Joanne Shamp, Council Member	Aye
Tracey Gore, Council Member	Aye

DULY PASSED AND ADOPTED this 6th day of March, 2017.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to form:

By: 
Peterson Law Group, Town Attorney