

ORDINANCE NO.: 2022-\_\_\_\_\_

1 AN ORDINANCE OF HERNANDO COUNTY, FLORIDA,  
2 AMENDING CHAPTER 22, ARTICLE I OF THE HERNANDO  
3 COUNTY CODE OF ORDINANCES BY ADDING  
4 DEFINITIONS TO SECTION 22-2; ADDING A SECTION TO  
5 22-10 PROHIBITING SMOKING IN COUNTY PARKS AND  
6 RECREATION AREAS AS AUTHORIZED BY LAW;  
7 PROVIDING FOR THE REPEAL OF CONFLICTING  
8 PROVISIONS; PROVIDING FOR SEVERABILITY;  
9 PROVIDING FOR INCLUSION IN THE CODE; AND  
10 PROVIDING FOR AN EFFECTIVE DATE.  
11

12 WHEREAS, the Board of County Commissioners of Hernando County, Florida, is  
13 authorized by provisions in Chapter 125, Florida Statutes, to provide for the health,  
14 safety, and general welfare of the residents of Hernando County; and

15 WHEREAS, a report by the Surgeon General of the United States Department of  
16 Health and Human Services states tobacco smoke contains over seven thousand (7,000)  
17 chemicals, including hundreds that are toxic and up to sixty-nine (69) that are known to  
18 cause cancer; and

19 WHEREAS, exposure to secondhand smoke, including smoke in crowded outdoor  
20 areas, has been linked to cancer and other fatal diseases, can also cause numerous health  
21 problems, and can cause concentrations of air contaminants comparable to those caused

1 by indoor smoking; and

2 WHEREAS, the community at-large uses County owned parks, beaches,  
3 playgrounds, athletic fields, skate parks, aquatics, and other recreational facilities, and  
4 some members of the public smoke cigarettes and vape in close proximity to others, and  
5 improperly discard cigarette butts; and

6 WHEREAS, smoking, cigarette butts, smokeless tobacco, and electronic smoking  
7 devices pose health risks and the threat of poisoning to young children, adults, and  
8 animals; and

9 WHEREAS, as of July 1, 2022, HB 105 became law, which narrows the existing  
10 preemption of smoking regulation to the state and authorizes counties and municipalities  
11 to restrict smoking within the boundary of any public beaches and public parks they  
12 own; and

13 WHEREAS, this ordinance is intended to protect the health, safety, and welfare  
14 of county residents and visitors by prohibiting smoking in County parks and recreation  
15 areas; and

16 WHEREAS, this ordinance is intended to protect the environment from litter that  
17 can be toxic to humans and animals.

18 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
19 COMMISSIONERS OF HERNANDO COUNTY:

20 **Section 1.** Section 22-2 of Article I of Chapter 22 Parks and Recreation is  
21 amended by adding definitions to read as follows:

1           Sec. 22-2. - Definitions.

2           The following words, terms and phrases, when used in this chapter, shall have the  
3 meanings ascribed to them in this section, except where the context clearly indicates a  
4 different meaning:

5           *Board* means the Board of County Commissioners of Hernando County.

6           *County* means Hernando County.

7           *Department* means the Hernando County Parks and Recreation Department.

8           *Director* means the Hernando County Parks and Recreation Director or his or her  
9 designee.

10          *Loud and raucous* means any sound which because of its volume level, duration,  
11 and character, annoys, disturbs, injures, or endangers the comfort, health, peace or safety  
12 of reasonable persons of ordinary sensibilities within the limits of a county park. This  
13 term shall be limited to such sounds which are plainly audible within any county park  
14 from a location not less than fifty (50) feet from the source of the noise, provided that  
15 the term shall not apply to amplified sound produced by equipment owned or controlled  
16 by the department or a park employee and being used for official park purposes.

17          *Park employee* means those individuals employed by the parks department who  
18 perform official duties within the parks.

19          *Park roads* means all surfaced areas ten (10) feet wide or wider designated for  
20 vehicular traffic and passing through any legally defined park or any part thereof. All  
21 other traffic ways, either unpaved or paved are classified as trails or paths.

1 *Park supervisor* means the person in charge of any park area and its activities and  
2 to whom all subordinate park personnel of that park are responsible.

3 *Park waters* means all water located within park boundaries or managed by the  
4 department.

5 *Parking area* means any designated part of any park road, drive or special area  
6 contiguous thereto that may be set apart for the stationing of vehicles.

7 *Parks* means areas operated and maintained by the department including parks,  
8 trails, bridges, piers, boat ramps, beach accesses, playgrounds, fields, buildings, lakes,  
9 streams, canals, channels, waterways, water areas, submerged lands, shorelines and  
10 beaches therein and all public service facilities located on or in grounds, submerged  
11 lands, waters, buildings and structures which are under the control of or assigned for  
12 upkeep, maintenance or operation by the parks department.

13 *Person* shall be understood, as employed herein, to mean any individual regardless  
14 of age or sex, or any corporation, company, association, firm, partnership, club, society,  
15 or any association of persons, or any agent or employee thereof.

16 *Pet* means any living dumb creature, excluding feral and wild animals.

17 *Smoking* means inhaling, exhaling, burning, carrying, or possessing any lighted  
18 *tobacco product, including cigarettes, cigars, pipe tobacco, vaping from an electronic*  
19 *smoking device, and any other lighted tobacco product.*

20 *Special event* means any public assembly, parade, picnic, or other similar event  
21 in which one or more of the following applies:

- 1 (1) One hundred (100) or more participants;
- 2 (2) Use of amplified sound;
- 3 (3) Any advertising or sponsorship activities; or
- 4 (4) Selling/distributing any food, goods, or merchandise.

5 Vape or vaping means to inhale or exhale vapor produced by a vapor-generating  
6 electronic device or to possess a vapor-generating electronic device while that device is  
7 actively employing an electronic, a chemical, or a mechanical means designed to produce  
8 vapor or aerosol from a nicotine product or any other substance. The term does not  
9 include the mere possession of a vapor-generating electronic device.

10 Vapor-generating electronic device means any product that employs an electronic,  
11 a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine  
12 product or any other substance, including, but not limited to, an electronic cigarette,  
13 electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product,  
14 any replacement cartridge for such device, and any other container of a solution or other  
15 substance intended to be used with or within an electronic cigarette, electronic cigar,  
16 electronic cigarillo, electronic pipe, or other similar device or product.

17 *Vehicle* means any wheeled conveyance, except as a baby carriage or wheelchair,  
18 for the transportation of persons or materials whether motorized, such as an automobile,  
19 truck, motorcycle, or scooter; animal-drawn, such as a carriage, wagon or cart; self-  
20 propelled, such as a bicycle or tricycle; or any trailer in tow of any size, kind or  
21 description. Exception is made as to any transportation service authorized by the director

1 or an emergency vehicle while performing an emergency service.

2 *Vessel* is synonymous with boat as referenced in s. 1(b), Art VII of the State  
3 Constitution and includes every description of watercraft, barge, and air boat, other than  
4 a seaplane on the water, used or capable of being used as a means of transportation on  
5 water.

6 **Section 2.** Section 22-10 of Article I of Chapter 22 Parks and Recreation is  
7 amended thereto with the respective Section as follows:

8 Sec. 22-10. - Proper Use and Prohibited Activities.

9 (a) No person over the age of six (6) shall occupy or enter any restroom, dressing  
10 room, bathhouse, or other park structures which are reserved or designated by  
11 the department for the exclusive use of the opposite sex without adult  
12 supervision.

13 (b) No person shall loiter in or around any restroom, dressing room, bathhouse,  
14 or parking lot; or engage in any lewd and lascivious behavior; or use any kind  
15 of photographic, audio or image recording, or video transmission equipment  
16 in or unreasonably near any such facility.

17 (c) No person shall dress or undress in a park except in such structures as may be  
18 provided and maintained by the department for that purpose; and dressing or  
19 undressing in any vehicle (except for recreational vehicles), toilet, on the  
20 beach, in any park area, or restrooms is prohibited. This prohibition shall not  
21 apply to single occupancy restrooms with locks and individual restroom stalls

1 with doors.

2 (d) No person shall engage in any activity within park property which is  
3 dangerous to the health, safety, and welfare of any person or which could  
4 cause damage to the property of other patrons or park property.

5 (e) No person shall engage in any activity or game within park property when  
6 such activity or game interferes with the use and enjoyment of the park and  
7 its facilities by others.

8 (f) No person shall use roller skates, roller blades, in-line skates, bicycles or  
9 skateboards, except in areas specially designated for such activities by the  
10 director or pursuant to state law.

11 (g) Unless otherwise provided in Section 386.209, Florida Statutes, smoking is  
12 strictly prohibited in any form within the boundaries of County owned parks  
13 and beaches, with the exception of unfiltered cigars. Vaping is also included  
14 within the definition of smoking and is likewise prohibited.

15 **Section 3. Conflicting Provisions.** All ordinances or resolutions or parts thereof  
16 that may be determined to be in conflict herewith are hereby repealed.

17 **Section 4. Severability.** It is declared to be the intent of the Board of County  
18 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of  
19 this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof  
20 shall not affect the validity of the remaining portions of this ordinance.

21 **Section 5. Inclusion in the Code.** It is the intention of the Board of County

**DRAFT DOCUMENT. NOTE: additions/deletions=language proposed for addition/deletion to existing Code provisions.**

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1 Commissioners of Hernando County, Florida, and it is hereby provided, that the  
2 provisions of this Ordinance shall become and be made a part of the Code of Ordinances  
3 of Hernando County, Florida. To this end, the sections of this Ordinance may be  
4 renumbered or relettered to accomplish such intention, and that the word "ordinance"  
5 may be changed to "section," "article," or any other appropriate designation.

6 **Section 6. Effective Date.** This ordinance shall take effect immediately upon  
7 receipt of official acknowledgment from the office of the Secretary of State of Florida  
8 that this ordinance has been filed with said office.

9 ADOPTED AND ENACTED by the Board of County Commissioners of Hernando  
10 County, Florida, in Regular Session, this \_\_\_\_ day of \_\_\_\_\_, 2022.

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12  
13 Attest:

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

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15  
16 \_\_\_\_\_  
17 Douglas A. Chorvat, Jr.  
18 Clerk of the Circuit Court & Comptroller

19  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 Chairman

23 Approved for legal form  
24 and sufficiency:

*Victoria Anderson*

25 \_\_\_\_\_  
County Attorney's Office