



## ORDINANCE NO. 2023-02

**AN ORDINANCE OF THE TOWN OF BELLEAIR SHORE, FLORIDA, AMENDING CHAPTER 30 – WATERWAYS, DIVISION 2. – BEACH AND ACCESS AREA RESTRICTIONS, BY CREATING A NEW SECTION 30-59. – SMOKING AND VAPING PROHIBITED; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

---

**WHEREAS**, the Town Commission of the Town of Belleair Shore (the Commission) adopted an ordinance prohibiting certain activities on the beach in 1984, which was amended in 1997 under Ordinances 1997-1, in 2019 under Ordinance 2019-02, and in 2020 under Ordinance 2020-01; and

**WHEREAS**, the ordinance prohibited a variety of activities on the beach to maintain the safety and character of the local community; and

**WHEREAS**, Fla. Stat. §386.209 provides that counties and municipalities may restrict smoking within the boundaries of any public beach and public parks that the local government owns except for restrictions on unfiltered cigarettes; and

**WHEREAS**, cigarette butts are one of the most commonly found items of litter on Florida's beaches. The litter caused by those who improperly dispose of cigarette butts or other tobacco products on the public beach is difficult to remove from the beaches, can cause ingestion hazards to wildlife, can significantly detract from a healthy environment, and reduce the enjoyment of the Town's public beaches for those individuals and families who want to enjoy a healthy environment, free of smoking related pollution and hazards; and

**WHEREAS**, that the Florida Legislature in its staff analysis of the amendment to Chapter 386, part II noted that exposure to secondhand smoke can cause numerous health problems and been causally linked to cancer and to other potentially fatal diseases. Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker; and

**WHEREAS**, the Town is solely comprised of fifty-two (52) homes and only a residential zoning district without out any commercial or businesses within its jurisdiction; and

**WHEREAS**, there is no business or economic impact implications for the passage of this ordinance within the Town; and

**WHEREAS**, the Commission finds it is in the best interest of the Town of Belleair Shore's health, safety, and well-being to adopt this ordinance.

**NOW THEREFORE, BE IT ORDAINED BY** the Town Commission of the Town of Belleair Shore, Florida, as follows:

**Section 1. :** All of the foregoing findings are true and correct and shall be incorporated as if fully set forth herein.

**Section 2. :** A new Section 30-59 of the Town of Belleair Shore Code of Ordinances is hereby enacted to read as follows:

**Sec. 30-59. – Smoking and Vaping Prohibited**

- (a) No person shall use, consume, inhale, exhale, or burn any (i) electronic cigarette, as defined in this section, or (ii) lighted tobacco product, including cigarettes, pipe tobacco, and any other lighted tobacco product with the exception of unfiltered cigars, in or on public beaches owned or controlled by the City.
- (b) The consumption, inhalation, exhalation, or burning of any electronic cigarette or lighted tobacco product that is done in connection with a City sponsored or co-sponsored event approved by a resolution of City Council that permits such activity is exempt from this section.
- (c) For the purpose of this section, *Electronic cigarette* and *e-cigarette* means any product that employs an electronic, chemical, or mechanical means that provides, or is manufactured to provide, a vapor of liquid nicotine or other substances mixed with propylene glycol or other substances delivered or deliverable to the user that he or she can inhale in simulation of smoking, vaping, or other inhalation mechanism. This term shall include every version and type of such devices whether they are manufactured or marketed as e-cigarettes, e-cigars, e-pipes, or under any other product name or description.

**Section 3.:** All other ordinances or resolutions which conflict wholly or in part with the provisions of this ordinance, are hereby repealed effective the date this ordinance becomes effective.

**Section 4.:** If any section, subsection, sentence, clause or phrase of the Ordinance is determine for any reason to be illegal, invalid, or unconstitutional by a court or regulatory body of competent jurisdiction, then the offending provision shall be deemed severable, shall not affect the validity of the remaining portions hereof, and the remainder shall continue in full force and effect.

**Section 5.:** The effective date of this shall be immediately upon its passage in the manner provided by law.

**UPON MOTION DULY MADE AND CARRIED,** the foregoing ordinance was approved upon the first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**UPON MOTION DULY MADE AND CARRIED**, the foregoing ordinance was approved upon the second reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**TOWN OF BELLEAIR SHORE**

**ATTESTED BY:**

\_\_\_\_\_  
Sandra Roland  
Town Clerk

\_\_\_\_\_  
Robert E. Schmidt Jr.  
Mayor

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Regina A. Kardash, Esq. B.C.S.  
Town Attorney