



Fort Myers Beach Management & Planning Session

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Agenda

Thursday, March 5, 2026

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ITEMS FOR DISCUSSION
 - A. Joint Session with Public Safety Committee
Joint Session with Public Safety Committee
 - B. Proposed Ordinance: Smoking/Vaping
Discussion item only

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 18-30 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO PROHIBIT SMOKING AND VAPING IN THE TOWN'S PUBLIC PARKS, AND IN COUNTY PARKS AND BEACHES LOCATED IN THE TERRITORIAL BOUNDARIES OF THE TOWN; DEFINING THE TERMS "SMOKE" AND "VAPE;" EXCLUDING FROM REGULATION UNFILTERED CIGARS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

- IV. AGENDA MANAGEMENT
 - A. March 2026
- V. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON [YOUTUBE](#).

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

1. **Request:**

Meeting Date: March 5, 2026

Joint Session with Public Safety Committee

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

The Town's Public Safety Committee has not convened since October 21, 2025. At this time, the Committee is seeking direction from Town Council regarding any priorities, initiatives, or topics the Council would like the Committee to review, evaluate, or assist in developing moving forward.

There is currently one (1) vacancy on the Committee.

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk

Date:

Joe Onzick, Finance Director

Date:

nancy stuparich, Town Attorney

Date:

William McKannay, Town Manager

Date:

1. **Request:**

Meeting Date: March 5, 2026

Discussion item only

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 18-30 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO PROHIBIT SMOKING AND VAPING IN THE TOWN'S PUBLIC PARKS, AND IN COUNTY PARKS AND BEACHES LOCATED IN THE TERRITORIAL BOUNDARIES OF THE TOWN; DEFINING THE TERMS "SMOKE" AND "VAPE;" EXCLUDING FROM REGULATION UNFILTERED CIGARS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Ordinance

5. **Background:**

Florida Statutes, Section 386.209, preempted local governments from regulating smoking in public buildings. In 2022, the law was amended to permit counties and municipalities to further "restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars. A municipality may further restrict smoking within the boundaries of public beaches and public parks that are within its jurisdiction, but are owned by the county, unless such restriction conflicts with a county ordinance, except that they may not further restrict the smoking of unfiltered cigars." The law as amended also allowed municipalities and counties to regulate the use of vapor-generating devices. Lee County recently adopted Ordinance 25-14 to prohibit smoking and vaping in county parks. The proposed ordinance amends the Town's current ordinance in accordance with Section 386.209 and regulates smoking and vaping in public parks and beaches, including Bowditch Park, Lynn Hall Memorial Park, and the pier which are county parks located within the territorial boundaries of the Town of Fort Myers Beach. It does not conflict with Lee County Ordinance 25-14 or restrict or regulate the use of unfiltered cigars. ; and

Attachments:

1. First Reading Ord 26-07- Smoking and Vaping Prohibition
2. Ch_2022-213 Vaping and Smoking
3. Lee County Ord. 25-14
4. Rev. Business Impact Statement- Smoking and Vaping Prohibition Ord. 26-07

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk

Date: February 27, 2026

William McKannay, Town Manager

Date:

ORDINANCE NO. 26-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 18-30 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO PROHIBIT SMOKING AND VAPING IN THE TOWN'S PUBLIC PARKS, AND IN COUNTY PARKS AND BEACHES LOCATED IN THE TERRITORIAL BOUNDARIES OF THE TOWN; DEFINING THE TERMS "SMOKE" AND "VAPE;" EXCLUDING FROM REGULATION UNFILTERED CIGARS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Florida Statutes, Section 386.209, previously known as the Florida Clean Indoor Air Act ("Act"), pre-empted local governments from regulating smoking in public buildings; and

WHEREAS, in 2022, the Act was amended and renamed as the Florida Clean Air Act, and permitted counties and municipalities to further "restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars. A municipality may further restrict smoking within the boundaries of public beaches and public parks that are within its jurisdiction, but are owned by the county, unless such restriction conflicts with a county ordinance, except that they may not further restrict the smoking of unfiltered cigars."; and

WHEREAS, as amended Section 383.209 now further provides "[t]his section does not preclude the adoption of county or municipal or county ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part."; and

WHEREAS, Lee County recently adopted Ordinance 25-14 to include vaping as a prohibited activity in its county parks; and

WHEREAS, Bowditch Park, Lynn Hall Memorial Park, and the pier are county parks located in the territorial boundaries of the Town of Fort Myers Beach; and

WHEREAS, the Town’s current regulations concerning smoking do not include regulations regarding smoking and vaping in the Town’s public parks or beaches; and

WHEREAS, a first reading of the title of this Ordinance occurred at a public hearing before the Town Council on March 3, 2026, and the Town Council voted to approve scheduling a second reading of this Ordinance and a public hearing on April 6, 2026; and

WHEREAS, the Ordinance was advertised in the News Press and a Business Impact Estimate was published on the Town’s website on the ___ day of _____, which is 10 days prior to the Town Council’s second reading of the title to the Ordinance and public hearing; and

WHEREAS, a second reading of the title to the Ordinance was heard on April 6, 2026 and followed by a public hearing regarding the adoption of this Ordinance; and

WHEREAS, the Ordinance is not in conflict with Lee County Ordinance 25-14 and does not regulate or restrict the use of unfiltered cigars; and

WHEREAS, it is in the best interest of the health and safety of the residents of the Town of Fort Myers Beach for the Town Council to adopt an ordinance to prohibit smoking and vaping in all of the Town’s public parks, and beaches, including, Bowditch Park and Lynn Hall Memorial Park and the Lee County’s pier, as authorized by Section 386.209, Florida Statutes.

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

SECTION 1. The above “Whereas” clauses are adopted herein by reference.

SECTION 2. Section 18-30 of the Town of Fort Myers Beach Code of Ordinances is hereby amended to read as follows:

Section 18-30. Regulated Behavior

[...]

(f) Smoking and Vaping. Pursuant to F.S. Ch. 386, the Florida Clean Air Act, ~~No person shall smoke or vape within the confines of those recreation centers and community buildings designated by the town manager~~ the boundaries of any public park or public beach in the Town of Fort Myers Beach, including but not limited to Bowditch Park, Lynn Hall Memorial Park, and the pier which are owned by Lee County and located within the territorial boundary of the Town of Fort Myers Beach.

1) The term “smoke” means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, with the exception of unfiltered cigars.

2) The term “vape” means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

3) The term “public beach” shall include beach access areas.

SECTION 3. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective Date. This Ordinance shall become effective upon adoption.

The forgoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor _____
Scott Safford, Vice Mayor _____
John King, Council Member _____
Rebecca Link, Council Member _____
John McLean, Council Member _____

ADOPTED this ___ day of _____, 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this ___ day of _____, 2026.

CHAPTER 2022-213

Committee Substitute for House Bill No. 105

An act relating to the regulation of smoking by counties and municipalities; revising the title of part II of ch. 386, F.S.; amending s. 386.201, F.S.; revising a short title; amending s. 386.209, F.S.; authorizing counties and municipalities to further restrict smoking within the boundaries of public beaches and public parks under certain circumstances; providing an exception; amending ss. 381.84 and 386.211, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part II of chapter 386, Florida Statutes, entitled “INDOOR AIR: SMOKING AND VAPING,” is renamed “SMOKING AND VAPING.”

Section 2. Section 386.201, Florida Statutes, is amended to read:

386.201 Short title Popular name.—This part may be cited as by the popular name the “Florida Clean ~~Indoor~~ Air Act.”

Section 3. Section 386.209, Florida Statutes, is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any county or municipal ~~municipal or county~~ ordinance on the subject; however, counties and municipalities may further restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars. A municipality may further restrict smoking within the boundaries of public beaches and public parks that are within its jurisdiction but are owned by the county, unless such restriction conflicts with a county ordinance, except that they may not further restrict the smoking of unfiltered cigars. School districts may further restrict smoking by persons on school district property. This section does not preclude the adoption of county or municipal ~~municipal or county~~ ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part.

Section 4. Paragraph (h) of subsection (3) of section 381.84, Florida Statutes, is amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The

program shall include the following components, each of which shall focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(h) *Enforcement and awareness of related laws.*—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Florida Clean ~~Indoor~~ Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (a) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

Section 5. Section 386.211, Florida Statutes, is amended to read:

386.211 Public announcements in mass transportation terminals.—Announcements about the Florida Clean ~~Indoor~~ Air Act shall be made regularly over public address systems in terminals of public transportation carriers located in metropolitan statistical areas with populations over 230,000 according to the latest census. These announcements shall be made at least every 30 minutes and shall be made in appropriate languages. Each announcement must include a statement to the effect that Florida is a clean ~~indoor~~ air state and that smoking and vaping are prohibited except as provided in this part.

Section 6. This act shall take effect July 1, 2022.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.

LEE COUNTY ORDINANCE NO. 25-14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 20 (PARKS AND RECREATION), ARTICLE II (PUBLIC CONDUCT IN COUNTY PARKS); PERTAINING TO SMOKING AND VAPING AT PUBLIC PARKS AND PUBLIC BEACHES; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Board of County Commissioners of Lee County, Florida (the "Board") is the governing body in and for Lee County, Florida; and

WHEREAS, the Board is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, the Board has adopted Ordinance 18-12, which was amended by Ordinance 18-27 and Ordinance 20-11, pertaining to public conduct in county parks (the "Lee County Parks and Recreation Ordinance"); and

WHEREAS, on August 1, 2023, the Board adopted the "Code of Ordinances of Lee County, Florida," as the official codification of all ordinances of a general and permanent nature; and

WHEREAS, the Lee County Parks and Recreation Ordinance has been codified in the Lee County Code of Ordinances at Chapter 20, Article II; and

WHEREAS, the Board has determined that it is in the interest of the public health, safety and welfare that the Lee County Parks and Recreation Ordinance be amended to prohibit smoking and vaping at all public parks and public beaches, in accordance with Florida Statutes Section 386.209, as amended.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida that in order to promote the public health, safety and welfare of the citizens of Lee County, Florida the following Ordinance is hereby enacted:

SECTION ONE: AMENDMENT TO CODE OF ORDINANCES, CHAPTER 20

The Code of Ordinances of Lee County, Chapter 20 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 20 – PARKS AND RECREATION

ARTICLE II. – PUBLIC CONDUCT IN COUNTY PARKS

Sec. 20-28. Conduct.

[Subsection (a) remains unchanged.]

(b) *Smoking.* Pursuant to F.S. Ch. 386, Florida Clean Indoor Air Act, as amended from time to time, no person shall smoke or vape within the confines of any school property or within the boundaries of any public indoor park facility or public beach. ~~No e-cigarette or vaping use is permitted on school property or indoor park facility.~~

- 1) The term "smoke" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, with the exception of unfiltered cigars.
- 2) The term "vape" means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

[Remainder of subsection is unchanged.]

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code of Ordinances. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Attorney, or the County Manager or his designee, without the need for a public hearing.

SECTION FIVE: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

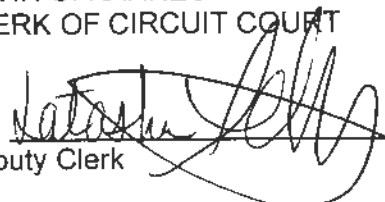
Commissioner Hamman made a motion to adopt the foregoing ordinance, seconded by Commissioner Mulicka. The vote was as follows:


Kevin Ruane	Aye
Cecil L Pendergrass	Absent
David Mulicka	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 17th day of June, 2025.

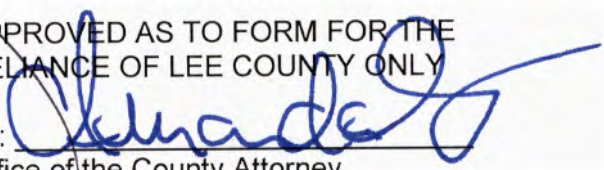
ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Kevin Ruane, Chair **BRIAN HAMMAN**



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY
By: 
Office of the County Attorney

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 25-14
(e.g., 93-001)

PRIMARY KEYFIELD
DESCRIPTOR: Smoking & Vaping

SECONDARY KEYFIELD
DESCRIPTOR: Parks

OTHER KEYFIELD
DESCRIPTOR: Beaches & Shores

ORDINANCE DESCRIPTION: Smoking & Vaping in Parks & Beaches
(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: Lee County AMENDMENT #2:
 Code of Ord.
 Sec. 20-28

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____
REPEAL #2: _____ ; REPEAL #4: _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: _____
KEYFIELD 1 CODE: _____ KEYFIELD 2 CODE: _____
~~KEYFIELD 3 CODE: _____~~



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

June 23, 2025

Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 25-14, which was filed in this office on June 23, 2025.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp

RECEIVED

By Latasha Seth at 2:55 pm, Jun 23, 2025

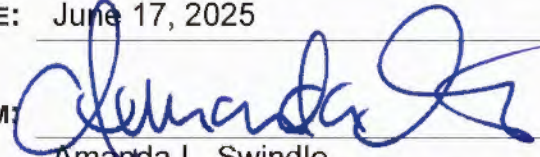
**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

VIA HAND DELIVERY

DATE: June 17, 2025

To: Commissioner Ruane
Chair, Board of County
Commissioners

FROM:


Amanda L. Swindle
Assistant County Attorney, Senior

RE: **Ordinance No. 25-14
Public Hearing to Amend Ordinance to Prohibit Smoking & Vaping at County
Parks and Public Beaches
Agenda Item 9:30PH60 - June 17, 2025**

Attached, approved as to form, please find the original of the above-referenced ordinance adopted by the Board of County Commissioners on June 17, 2025.

The original ordinance is attached to the memorandum for execution. Kindly execute the ordinance at your earliest convenience and then forward to the Records Management Department for filing and transmittal to Tallahassee.

By copy of this memorandum to Claudia Curtin, I request that a clerk attest to the Chair's signature on the attached ordinance and return the fully executed copy with all exhibits to my attention via email.

Insofar as State Statute mandates that the ordinance reach Tallahassee within ten (10) days of the adoption, please expedite the above request so that the ordinance arrives in Tallahassee no later than June 27, 2025. Also attached please find the Data Retrieval form to accompany the ordinance when transmitted to the State.

Thank you for your prompt attention to this matter.

Attachment

VIA EMAIL ONLY:

Samantha Westen, Executive Assistant
Rose Bahena, Administrative Specialist, Senior
Claudia Curtin, Records Program Manager
leeclerkminutes@leeclerk.org
Lauren Schaefer, Legal Administrative Specialist (for ordinance history)

2025 JUN 20 PM 12:52

RECEIVED
MIRVET OFFICE

AGENDA ITEM REPORT

DATE: June 17, 2025
DEPARTMENT: County Attorney
REQUESTER: Amanda L. Swindle
TITLE: Conduct Public Hearing to Amend Ordinance to Prohibit Smoking, Vaping at County Parks, Public Beaches

I. MOTION REQUESTED

Conduct Public Hearing to Amend Chapter 20 of the Lee County Code of Ordinances, Parks & Recreation, to Prohibit Smoking & Vaping at County Parks & Public Beaches.

II. ITEM SUMMARY

Currently, Chapter 20 of the Lee County Code of Ordinances prohibits smoking at schools and indoor park facilities. This amendment will expand the prohibition to smoking and vaping at all county parks and public beaches, with certain exceptions, in accordance with Florida Statutes Section 386.209, as amended. The ordinance will continue to be enforced by Parks & Rec, including the appeal process. The fine schedule will continue to be \$100, \$200, and \$300 for a first, second, and third offense.

The Executive Regulatory Oversight Committee reviewed the proposed amendment to the Code on May 14, 2025, and voted 6-1 to recommend its adoption.

III. BACKGROUND AND IMPLICATIONS OF ACTION

Florida Statutes Section 386.209 has generally preempted the regulation of smoking to the state, with certain exceptions, including the ability for local governments to prohibit smoking at schools and indoor park facilities. The statute was amended in 2019 to further allow local governments to prohibit smoking and vaping at all county parks and public beaches. Unfiltered cigars are exempt under the statute.

Currently, Chapter 20 of the Lee County Code of Ordinances prohibits smoking at schools and indoor park facilities. This amendment will expand the prohibition to smoking and vaping at all county parks and public beaches, with certain exceptions, in accordance with Florida Statutes Section 386.209, as amended. The ordinance will continue to be enforced by Parks & Rec, including the appeal process. The fine schedule will continue to be \$100, \$200, and \$300 for a first, second, and third offense.

The Executive Regulatory Oversight Committee reviewed the proposed amendment to the Code on May 14, 2025, and voted 6-1 to recommend its adoption.

IV. FINANCIAL INFORMATION

Current Year Dollar Amount:	No funding required.
Included in the Current Budget?:	N/A
Fund:	N/A
Comments:	

Is this a revenue or expense item? No
Is this Discretionary or Mandatory? Discretionary
Will this item impact future budgets? No
Program:
Project:
Account Strings:
Fund Type?

V. RECOMMENDATION

Approve

ATTACHMENTS:

Smoking Vaping Ordinance, FAIS - Smoking & Vaping, Business Impact Statement - Smoking and Vaping

REVIEWERS:

Sandra Kokotilo, County Attorney
Amanda Swindle, County Attorney
Richard Wesch, County Attorney
Mack Young, Parks & Recreation
Anne Henkel, Budget Services
Peter Winton, County Manager

Created/Initiated - 6/4/2025
Approved - 6/5/2025
Approved - 6/5/2025
Approved - 6/9/2025
Approved - 6/9/2025
Final Approval - 6/9/2025

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Fort Myers Beach website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 18-30 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO PROHIBIT SMOKING AND VAPING IN THE TOWN'S PUBLIC PARKS, AND IN COUNTY PARKS AND BEACHES LOCATED IN THE TERRITORIAL BOUNDARIES OF THE TOWN; DEFINING THE TERMS "SMOKE" AND "VAPE;" EXCLUDING FROM REGULATION UNFILTERED CIGARS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance prohibits smoking and vaping in certain public locations within the Town of Fort Myers Beach in order to protect community interests in safety, aesthetic, and cleanliness.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the [City's/Town's/Village's] regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

No direct impact on private, for-profit businesses anticipated.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

Zero.

4. Additional information the governing body deems useful (if any):

[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: [City/Town/Village] staff solicited comments from businesses in the [City/Town/Village] as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on [City/Town/Village] website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].

Not applicable.

AGENDA MANAGEMENT

Subject	Dept		Mtg Date
Joint Session w/Public Safety Committee for direction	Council/PSC	added 1.28.26	3.5.26 M&P
Ordinancel discussion: Smoking/Vaping	Administration	added 12.15.25	3.5.26 M&P
Resolution: Amendment & Restating Donation Policy	Legal	added 2.5.26	3.16.26
VAR20250220, 173 Gulf Island Drive (Reso. 26-020)	P&Z	added 2.17.26	3.16.26
SEZ20250271, 166/168 Coconut Drive (Reso. 26-015)	P&Z	added 2.17.26	3.16.26
2nd reading: Ord. 25-20, FMB Woman's Club CPD	P&Z	added 1.21.26	3.16.26
Resolution: Naming Rights Policy	Legal	added 2.5.26	3.16.26
Presentation by Charter Review Commission	Clerk	added 2.5.26	4.20.26
Leadership Forum (Strategic Planning) - 12:30 - 4:30 pm	Council	added 7.23.25	4.8.26 M&P
Discussion w/CRC (if needed)	Clerk	added 2.5.26	4.8.26 M&P
Review of Ordinance: golf cart rentals, e-bike/bike rentals (DA)	Council	added 12.15.25	4.8.26 M&P
Set September meeting dates for Budget hearings	Clerk	added 12.17.25	5.4.26
Citizen of Distinction Award?	Clerk	added 1.30.26	5.4.26
Proclamation: National Community Planning Month	P&Z	added 2.18.26	2nd Sept. Regular Mtg
Upcoming - no date set			
Discussion regarding Ordinance 17-15, Medical Marijuana Dispensaries	Council	added 12.11.24	TBD
Discussion: Public/Private partnerships (i.e. old Town Hall property)	Council	added 12.11.24	TBD
Discussion: 2525 Estero property (old Town Hall)	Council	added 12.1.25	TBD
1st Reading Ordinance 24-xx: Lighting	Environmental	added 4.6.24	To LPA first
1st reading Ordinance 24-xx; Signage	Legal	added 6.17.24	To LPA first
1st reading Ordinance 24-xx; Silt Fencing	Planning	added 6.17.24	To LPA first
Presentation: permitting, flood mitigation systems, FAQs, common mistakes, etc. (JA)	Council	added 8.7.25	TBD
1 year Review of Ordinance 25-03 (Bicycle Safety)	Council	added 6.16.25	May/June '26 TC meeting
1st reading: Ordinance for Possible Ballot Referenda	Clerk	added 7.16.25	1st May '26 TC meeting
2nd reading: Ordinance for Possible Ballot Referenda	Clerk	added 7.16.25	2nd May '26 TC meeting