

## ORDINANCE NO. 18-07

### AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVIII, "BEACHES, BOARDWALKS AND RECREATIONAL AREAS" OF THE REVISED ORDINANCES OF THE CITY OF OCEAN CITY **BANNING SMOKING ON THE BEACH**

BE IT ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows:

#### **Section 1**

**Section 18-2.7 is hereby revised to read as follows:**

#### **18-2.7 Rules and Regulations.**

The following rules and regulations are hereby established and it shall be unlawful to violate any of these rules and regulations or resolutions subsequently adopted during the bathing season or at any other times:

- a. Each bathing beach shall be designated by the use of green flags or any other method approved by the health authority. A neutral zone of two hundred (200') feet between any designated bathing area and the unguarded area shall be established and kept clear of all watercraft, fishing and bathers. Watercrafts shall include but not be limited to kayaks, boogie boards, surfboards, sailboats, wind surfers, kite surfers and motorized water vehicles.
- b. To bathe or swim from the beachfront or other designated area except from the designated bathing beaches where lifeguards are provided, or to bathe or swim beyond a safe depth in the ocean as from time to time indicated or regulated by the lifeguards.
- c. To use a surfboard, sailboat, raft, kayak, float, wind surfer, or kite board of any kind or description except at locations designated by the appropriate City officials or City ordinance.
- d. To engage in surf fishing in bathing areas during bathing hours.
- e. All orders, directions, whistles, or other signals used by the lifeguards and police shall immediately be obeyed. Any actions deemed unsafe by the lifeguards or police shall cease immediately upon request.
- f. The consumption or possession of alcoholic beverages on the beach is prohibited.
- g. Changing clothes, dressing, undressing, or otherwise disrobing except for outer wraps is prohibited.
- h. Sleeping on the public beach during any time from sunset to sunrise is prohibited. Nothing contained in this particular section shall be deemed to supersede or otherwise render ineffective or repealed any other provision concerning use of the beaches during certain hours.
- i. To act in a loud, indecent, obscene or offensive manner is prohibited.
- j. To revel, disport or behave in a noisy or boisterous manner, emitting loud cries and other noises, so as to inconvenience others, or otherwise disrupt and disturb the public peace and dignity within the beach areas defined is prohibited.
- k. To climb upon, stand on or tamper with or handle the lifeguard boats, stands or other equipment used by the lifeguards is prohibited.
- l. Any form of ball playing that is deemed unsafe to the public is prohibited.
- m. To throw place, deposit or leave any bottles, glass, crockery, sharp or pointed articles or things, paper, refuse or debris of any kind on the beach is prohibited.
- n. To hawk or peddle, sell or offer for sale any article, goods, wares, or merchandise on the public beaches except as covered by State statute is prohibited.
- o. To park vehicles, loiter, assemble, band, or crowd together so as to obstruct, interfere or likely to obstruct or interfere with the ingress and egress of others at the street ends approaching the beaches or within areas defined as beach, boardwalks, ramps and approaches thereto.
- p. To drive or move any vehicle on the beach, boardwalk, ramps, steps, or approaches thereto, at any time during the year, without a permit in writing issued by the Chief of Police is prohibited. The riding of bicycles on the beach from Memorial Day weekend through Labor Day is prohibited.
- q. No dogs or other animals shall be permitted on the beachfront or the waters adjacent thereto or upon any public walk contained on the beachfront, with the exception that dogs are permitted on the beach during winter months as permitted in subsection 11-4.4b.

- r. The starting or maintenance of a fire on the beach, including any form of barbeque at any time during the entire year is prohibited.
- s. No privilege, right, badge, permit or other evidence to use the beaches of the City issued to or to be issued upon the payment of any of the fees provided for by this section shall be sold or leased or transferred to any person or entity by anyone other than the City or its duly authorized representative. However, that class referred in subsection 18-2.3 may be transferred from person to person provided no special or separate charge is made for such transfer or use. Specifically, the City or its duly authorized representatives shall be the sole and exclusive vendor and/or lessor of said privileges, rights, badges or permits as it is hereby deemed unlawful for any person or entity to purchase or lease badges from anyone other than the City or its duly authorized representatives.
- t. The counterfeiting, copying, duplication or other reproduction of beach badges or permits issued by the City of Ocean City by anyone other than the City of Ocean City or its authorized representatives is hereby prohibited.
- u. The possession of counterfeit and/or fraudulently obtained badges or permits is hereby prohibited.
- v. Notwithstanding any other provisions of this chapter, the playing of volleyball on certain beaches chosen and designated by the Fire Chief or his designee is permitted. The Fire Chief or his designee each year shall choose the number of beaches and location of beaches suitable for the playing of volleyball. In making these decisions the Fire Chief or his designee shall consider the size, topography, amount of beach and adjoining beaches and their uses. Volleyball play, however, shall be limited to those beaches which are not protected by lifeguards are not used by surfers and designated as surfing beaches and are not used and designated as sailboat or catamaran beaches.
- w. Smoking is prohibited on the entire beach, and the paths leading to the beach, at all times.

## **Section 2**

**Section 18-6 is hereby revised to read as follows:**

### **18-6 SMOKE-FREE PARKS AND RECREATIONAL AREAS.**

#### **A. Purpose.**

The purpose of this ordinance is to protect residents of and visitors to Ocean City from the health hazards of secondhand smoke, and to provide for the public health, safety and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking and tobacco; by reducing the potential for children to associate smoking and tobacco with a healthy lifestyle; by protecting the public from nonconsensual exposure to secondhand smoke and tobacco-related litter and pollution; and, by affirming the family-friendly atmosphere of public parks and recreational areas. This ordinance guarantees that the need to breathe smoke-free air shall take priority over smoking.

#### **B. Definitions.**

OUTDOOR DINING AREAS means dining areas that are not enclosed and part of a restaurant, business, nonprofit entity, place of employment, or located in any public place.

OPEN SPACE means as nature areas, greenbelts, and wildlife and vegetation habitat areas.

PARKS mean any parks owned, leased, or utilized by the City of Ocean City.

RECREATION AREA means any areas, public or private, open to the general public for recreational purposes, regardless of any fee requirement, including, but not limited to public parks, beach and ocean beach areas, ocean and other boardwalks, marina, pier, boat dock areas, open spaces, gardens, children's play areas, sports fields, stadiums, playgrounds, swimming pools, batting cages, tennis and basketball courts, golf courses, riding stables and senior center outdoor areas.

SCHEDULED PUBLIC EVENTS means any scheduled event within the City of Ocean City where the public is invited some of which may require a permit, including but not limited to farmers markets, concerts, parades, festivals, carnivals and car shows.

SERVICE AREA means any areas at which one or more persons are waiting for a transaction, entry or service of any kind, whether or not such services involves the exchange of money, including, but not limited to ATMs, ticket lines, bus stops and cab stands and school bus stops.

SMOKING means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe, hookah or similar device, or other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

ELECTRONIC SMOKING DEVICE means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.

TOBACCO PRODUCT means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco, including electronic smoking devices and dissolvable tobacco products not FDA-approved for tobacco cessation.

TRAILS means along all exercise, walking, hiking, and biking trails through parks or open space areas.

BOARDWALK means the elevated public pedestrian walkway constructed over the municipal right-of-way.

**C. Restrictions For Parks and Recreational Areas.**

It is unlawful for any person to use tobacco products on the property of any recreational facility, park, playground, sports fields and recreational property owned or operated by and located in the City of Ocean City and listed below:

1. Aquatic and Fitness Center – Simpson Avenue.
2. Bayside Center – Bay Avenue.
3. Carey Stadium, Ocean City High School.
4. Howard Stainton Senior Center – Simpson Avenue.
5. Hughes Performing Arts Center, Ocean City High School.
6. Municipal Golf Course – Bay Avenue.
7. Music Pier - Boardwalk.
8. Sports and Civic Center – 6<sup>th</sup> Street and Boardwalk.
9. Tennessee Avenue Boat Ramp.
10. 8<sup>th</sup> Street Playground and Recreational Facility.
11. 57<sup>th</sup> Street Beach Pavilion.
12. 1<sup>st</sup> and Simpson Avenue Playground.
13. 8<sup>th</sup> and Haven Avenue Playground.
14. 15<sup>th</sup> and Bay Avenue Playground.
15. 34<sup>th</sup> and Asbury Avenue Playground.
16. 52<sup>nd</sup> Street Playground.
17. Richard Grimes Field – 6<sup>th</sup> and Haven Avenue.
18. Emil Palmer Field – 15<sup>th</sup> and Simpson Avenue.
19. Harry Vanderslice Baseball Complex – 35<sup>th</sup> and Haven Avenue.
20. Basketball Courts located at North Street, 6<sup>th</sup> Street, 8<sup>th</sup> Street, 15<sup>th</sup> Street, 18<sup>th</sup> Street, 34<sup>th</sup> Street and 52<sup>nd</sup> Street.
21. Tennis Courts located at 6<sup>th</sup> Street, 18<sup>th</sup> Street, and 35<sup>th</sup> Street.
22. Shuffle Board Courts – 6<sup>th</sup> and Boardwalk.

23. Beach Volleyball – 5<sup>th</sup> and Beach.
24. Veteran’s Memorial Park – 5<sup>th</sup> and Wesley Avenue
25. Waterfront Park and Marina – 2<sup>nd</sup> and Bay Avenue
26. Ocean City Dog Park – 45<sup>th</sup> and Haven Avenue.
27. Boardwalk and ramps and stairs leading to the Boardwalk.
28. The beach and the paths leading to the beach.

**D. Posting Signs.**

A sign shall be clearly, sufficiently and conspicuously posted at every property where smoking is prohibited by this Ordinance. The sign(s) shall state “100% Smoke Free Public Property” or substantially similar language, written in lettering that is not less than ¾ inches in height, and shall contain the international no smoking sign or symbol.

**E. Enforcement.**

The Police Department is hereby charged with the enforcement of this ordinance. All members of the Police Department are hereby designated as enforcement officers for the purpose of enforcement of this ordinance.

**F. Penalties.**

It shall be a violation of this ordinance for any owner, operator, manager, or person who controls any premises subject to this ordinance to fail to comply with any of its provisions. It shall be unlawful to smoke or carry a lighted cigarette, cigar, or pipe, hookah, electronic smoking device or other product that can be smoked, where smoking is prohibited.

Any person who is found guilty of violating this ordinance shall pay fines as follow:

1. For a first offense, a fine of not less than \$100 nor more than \$250.
2. For a second or subsequent offense, a fine of not less than \$500 nor more than \$1,000.

**Section 3**

All ordinances or portions thereof inconsistent with this ordinance are repealed to the extent of such inconsistency.

**Section 4**

If any portion of this ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance which shall remain in full force and effect.

**Section 5**

This Ordinance shall take effect in the time and manner prescribed by law.