

ORDINANCE NO. 401

AN ORDINANCE TO PROHIBITING SMOKING IN ANY PUBLIC PARK IN THE TOWN OF OCEAN VIEW

WHEREAS, pursuant to Section 2.313 of the Ocean View Charter, the Town Council of the Town of Ocean View has all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute; and

WHEREAS, the Town Council has the power to adopt ordinances for the protection and promotion of the health, safety, and welfare of the residents of the Town; and

WHEREAS, the Town Council is mindful of the legislative determinations made by the Delaware General Assembly in enacting the Delaware Clean Indoor Air Act (16. Del. C. § 2901), and has determined that many of those same considerations should apply with equal force to all public parks within the Town of Ocean View; and

WHEREAS, the Town Council is mindful that its parks contain recreation areas for use by children and is often frequented by children and their families; and

WHEREAS, the Town Council desires to protect the Town's children from exposure to second hand tobacco smoke or to recreational marijuana smoke and from exposure to discarded tobacco or recreational marijuana butts or smoking devices; and

WHEREAS, the Town Council is mindful that smoking can be a source for accidental fires and it desires to protect its public parks from such threat; and

WHEREAS, the Town Council deems it appropriate, necessary and proper for the health, safety and welfare of the residents of the Town of Ocean View to adopt an ordinance pertaining to smoking in public parks within the Town of Ocean View.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN VIEW:

Section 1. Definitions.

"Smoking" means the smoking, burning, heating, inhaling or exhaling of any substance by any type of delivery system (i.e., cigar, cigarette, hookah, etc.). This includes electronic vapor-generating devices known as "e-cigarettes."

"Public Park" means any land to which the Town of Ocean View holds record title and which the Town has designated as park or recreation space available for public use.

Section 2. Smoking Prohibited in Public Parks

Smoking is prohibited at, and within a 25-foot radius of the perimeter of any public park within the Town of Ocean View, with the exception of private property or any posted designated smoking area.

Section 3. Penalties

Any person in violation of this ordinance shall be issued a citation. The penalty for each citation shall be One Hundred Dollars (\$100.00). The penalty for each subsequent citation issued within twelve (12) months of any prior citation shall be Two Hundred Dollars (\$200) over the prior citation, but not to exceed Five Hundred Dollars (\$500).

Section 4. If any provision of this ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this ordinance which may be given effect without such valid or unenforceable provision, and to this end, the provisions of this ordinance are hereby declared to be severable.

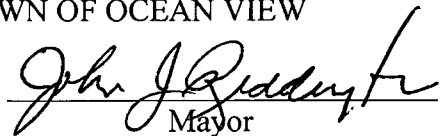
Section 5. This ordinance shall become effective upon its adoption by a majority of all members elected to the Town Council.

Synopsis

The purpose of this ordinance is to prohibit smoking within public parks in the Town of Ocean View. This ordinance outlines penalties for those individuals who violate this ordinance, which includes a \$100 penalty for each offense and a penalty of \$200 over the prior citation for any offense occurring within 12 months of a prior citation, not to exceed \$500.

TOWN OF OCEAN VIEW

By:


Mayor

Attest:


Town Clerk

First Reading: 11/12/2024

Second Reading: 1/14/2025

Adopted: 1/14/2025