

CITY OF POLSON

PARKS AND RECREATION DEPARTMENT

TOBACCO-FREE PARKS & RECREATION POLICY

WHEREAS, The City Of Polson believes that commercial tobacco use in the proximity of children and adults engaging in or watching outdoor recreational activities at City Of Polson-owned or operated facilities is detrimental to their health and can be offensive to those using such facilities; and

WHEREAS, The City Of Polson has a unique opportunity to create and sustain an environment that supports a tobacco-free norm through a tobacco-free policy, rule enforcement, and adult-peer role modeling on City Of Polson-owned recreational facilities; and

WHEREAS, The City Of Polson believes parents, leaders, and officials involved in recreation are role models for youth and can have a positive effect on the lifestyle choices they make; and

WHEREAS, people who use smokeless tobacco ingest a similar amount of nicotine as regular smokers and are exposed to at least 30 chemicals that are known to cause cancer; and

WHEREAS, cigarettes, once consumed in public spaces, are often discarded on the ground, requiring additional maintenance expenses, diminishing the beauty of The City Of Polson's recreational facilities, and posing a risk to toddlers and pets due to ingestion; and

WHEREAS, exposure to e-cigarette aerosol has not been proven to be safe; and e-cigarette aerosol contains harmful and potentially harmful chemicals such as Nicotine, Diacetyl, Benzene, and Tin.

WHEREAS, secondhand smoke levels in outdoor public places can reach levels as high as those found in indoor facilities where smoking is permitted; and

WHEREAS, the Surgeon General has determined that there is no safe level of exposure to secondhand smoke; and

WHEREAS, The Director of Parks and Recreation, City of Polson Commission, and the Polson Parks Board determine that the prohibition of commercial tobacco use at the City Of Polson's recreational facilities serves to protect the health, safety and welfare of the citizens of The City Of Polson.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Definitions

(1) "Tobacco Product" means

a) any product containing, made, or derived from tobacco or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested, or by any other means, including but not limited to a cigarette, a cigar, hookah, pipe tobacco, chewing tobacco, snuff, and snus.

b) any product, regardless of whether or not it contains nicotine, that can be used to deliver nicotine or another substance or solution in any form, including but not limited to aerosolized, vaporized, or heated, to the person inhaling from the device, including but not limited to an e-cigarette, e-cigar, e-pipe, vape

pen, e-hookah.

c) notwithstanding any provision to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. The term "Tobacco Product" does not include drugs, devices or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Tobacco-Free Parks & Recreation Policy and Procedures

1. No person shall use any Tobacco Product on **City Of Polson**-owned or operated recreational facilities, including the restrooms, sports fields, spectator and concession areas. These facilities include Boettcher Park, Riverside Park, Sacajawea Park, O'Malley Park, Pamiavitch Park, Jana Cambell Park, and Polson Sports Complex, and within these facilities to include skate parks, baseball facilities, soccer facilities and Pickleball courts.
2. The Tobacco-free Parks & Recreation Policy does not apply to a site that is being used in connection with the practice of cultural activities by American Indians that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a, whether or not the public is allowed access to those places.
3. It is not a violation of this policy to use a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
4. Appropriate signs shall be posted in the above specified areas in a conspicuous manner.
5. Enforcement of the policy is a shared responsibility of the enforcement team and recreational area users. The enforcement team, including Parks and Recreation staff, special event organizers, sports organization officials and coaches, and other City of Polson staff, will make periodic observations of recreational facilities to monitor for compliance.
6. Any individual found violating this policy will be reminded and asked to comply before being subject to ejection from the recreational area. City Of Polson staff found violating this policy may be subject to disciplinary action. This Tobacco-Free Parks & Recreation Policy is in addition to any federal, state, or local laws that restrict or otherwise regulate the use of Tobacco.
7. This policy is effective as of June 18, 2020
8. Violations and Penalties.
 - A. Violations of the ordinance are subject to the jurisdiction of the City of Polson Municipal Court.
 - B. A person who violates this Tobacco Free Ordinance shall be guilty of a misdemeanor and shall be subject to the following penalties, after receiving a warning for the first violation and a written reprimand for a second violation:
 1. \$100 for a third violation, within 3 years of the first violation;
 2. \$200 for a fourth violation within 3 years of the first violation; and

3. \$300 for a fifth or subsequent violation within 3 years of the first violation.

C. Incarceration is not a penalty. Each day of violation is a separate violation.

D. Enforcement of penalties shall not bar enforcement of this ordinance by injunction or other appropriate remedy.

E. Corporate entities and their agents may be held liable for conduct prohibited herein.

9. Other Applicable Laws. This ordinance shall not be interpreted or construed to allow smoking where it is otherwise restricted by other applicable laws.

Effective date: this ordinance shall be effective 30 days after adoption and passage.

Severability: If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Date May 4, 2020

First Reading: 6 ayes 1 nays absent

Date May 18, 2020

Second Reading: 5 ayes 1 nays abstentions 1 absent

First reading and preliminary adoption on the 4th day of May, 2020 by a vote of 6 ayes, (list names); 1 nays; abstentions; and absent, (name) Ayes: Commissioners Martin, Marchello, Moll, Howlett, Isbell, Mayor Briney. Nays: Commissioner Pardini

Attest:

Approved:

City Clerk Cora Pritt

Mayor Paul Briney