

Effective Date: January 1, 2017; in the interim, City staff shall engage in an educational campaign regarding this ordinance.

Chapter 11.5 - HEALTH AND SANITATION

ARTICLE II – CLEAN INDOOR AIR

Sec. 11.5-16 - Purpose and intent.

It is the purpose and intent of this article to limit the use of nicotine dispensing devices to the areas where the use of lighted tobacco products is allowed pursuant to state law.

Regulation of ~~indoor where the~~ smoking of lighted tobacco products ~~is allowed~~ is preempted to the state in F.S. ~~Chapter § 386.209~~, and the delivery to and possession of nicotine dispensing devices by a minor is prohibited in F.S. § 877.112. However, regulation of where the use of nicotine dispensing devices by adults is allowed is not preempted to the state. The city finds that it is in the best interest of the public health, safety and welfare to further regulate the use of nicotine dispensing devices within the city.

Chapter 18 - PARKS AND RECREATION

ARTICLE II. - PARK REGULATIONS

Sec. 18-20. - Prohibited activities.

It shall be unlawful for any person to do any of the following in any park listed in section 18-18 of this article or any other areas officially designated by the city commission as a park and posted as such unless specifically permitted by the appropriate authorization received from the city manager or designee and issued pursuant to this article, except for activities of the City of Gainesville which are undertaken within the scope of its governmental authority:

- (1) Construct or erect any hut, shanty or other shelter. Park users may temporarily set up a sun/shade apparatus up to ten feet by ten feet in size (larger sizes may be approved by request for special events conducted in the park areas upon the issuance of a facility use agreement by the city manager or designee in charge of that park area). Such apparatus must be made of flexible material, and any support lines which extend beyond the length and width of the covering, must be flagged for visibility and cannot be within 15 feet of any game court, sport's field, or children's play equipment. No sun/shade apparatus shall remain in place overnight in any park without a special use permit or facility use agreement being issued by the city manager or designee. All parks listed under section 18-18(b) are exempt from the temporary sun/shade apparatus provision as stated in this subsection (1);
- (2) Cook foodstuff on personal grills brought into the park area unless permitted by the appropriate authorization received from the city manager or designee. Persons may utilize only grills provided or permitted by the city for cooking in the park area. No fires or food preparation shall be allowed that pose a hazard to public property or the general public;
- (3) Set or stoke a fire, except for city authorized prescribed burns or those fires set or stoked in designated city or permitted grills, where they are provided, and said fire shall not be allowed if it poses a hazard to public property or the general public;
- (4) Gather firewood or other natural materials to set or stake a fire;
- (5) Discharge or deposit human wastes, except in toilet facilities provided by the city;
- (6) Dump or deposit yard waste;
- (7) Disturb the natural surface of the ground in any manner unless authorized in writing by the city manager or designee and done in accordance with a city-initiated land management activity;
- (8) Allow privately owned animals to discharge or deposit waste on park property without moving said waste. All owners or others in charge of privately owned animals shall remove their waste from the park grounds, and may deposit animal waste in park trash receptacles;
- (9) Pick flowers, nuts, berries, or fruit; or to damage or remove plants, trees, or shrubs, from any part of the park grounds unless specifically authorized in writing by the city manager or designee or done in accordance with a city-initiated land management activity;
- (10) Erect signs or affix signs to any tree, post, pole, fence or park facility or grounds except as provided by city ordinance, or through an approved facility use contract with the city manager or appropriate designee;

- (11) Drive, putt or otherwise hit a golf ball or shoot an arrow, except in parks specifically designated for those purposes;
- (12) In any way disturb, molest, or remove any wildlife, animal, bird, or egg located above, upon or below the surface of the park grounds or to allow any privately owned animal to do so unless specifically authorized in writing by the city manager or designee;
- (13) Write on, draw on, paint on, or otherwise deface, damage, remove or destroy any park facility or any part of the park grounds;
- (14) Carry any weapons, explosive, or destructive device, as defined in F.S. § 790.001, either openly or concealed, onto any park property; except as otherwise permitted by law or this article;
- (15) Operate or park any motorized vehicle, as defined in F.S. Ch. 316, on park grounds except in areas designated by the city as public parking areas, driveways, or roadways. Motorists shall obey all posted speed limit and other directional signs posted within the park. Authorized city personnel or contract personnel shall be allowed to drive vehicles onto park areas during facility maintenance or renovation projects;
- (16) Except as otherwise provided in this Code of Ordinances, purchase, sell, offer for sale, possess, or consume any alcoholic beverages, illegal drugs or intoxicating substances;
- (17) Use public restrooms to shave and/or shower, unless shower facilities are specifically provided for public use at that park;
- (18) Bathe or otherwise be or remain in a water or drinking fountain and/or its reservoir or to allow any privately owned animal to do so;
- (19) Use roller skates, roller blades or skateboards, except on park facilities specifically designated for this purpose;
- (20) Engage in the sale of any item on park property for any non-city sponsored function(s), except as allowed by a facility use agreement issued by the city manager or appropriate designee or in these ordinances;
- (21) Use of any park property for non-city sponsored fundraising activities, except as authorized by the city manager or appropriate designee or in these ordinances;
- (22) Engage in the destruction, removal or alteration of any city owned facility or equipment from any park property except as authorized by the city manager or designee;
- (23) Engage in the removal, alteration or destruction of archaeological or cultural resources from any park property and water body except as authorized by the city manager or designee. For purposes of this article "archaeological or cultural resources" means any associated physical artifacts and features below the ground service indicating the past use of a location by people which may yield information on the city's history or prehistory, including but not limited to artifacts, fossils, bones, shell mounds, or primitive culture facilities or items;
- (24) Install any gate providing access to any park, or build any trail except as authorized by an approved management plan or the city manager or designee;
- (25) Feed any animal except as authorized by the city manager or designee;
- (26) Engage in the removal, destruction or harassment of animals and plants from or on parklands, except for authorized research efforts, as authorized by the city manager or appropriate designee; and
- (27) Engage in the introduction of plants or animals onto park lands unless authorized by the city manager or appropriate designee.
- (28) Smoking outdoors, as defined and prohibited in Article IV of Chapter 11.5 of the City Code. Any person violating this prohibition shall be subject to the penalties of Section 2-339.

Sec. 2-339. - Applicable codes and ordinances.

The following ordinances are enforceable by the procedures described in this division:

11.5-41	Prohibition of smoking at Rosa Parks RTS Downtown Station	II	\$75.00
11.5-41.142	Prohibition of smoking at or within 20 feet of all RTS bus stops and bus shelters	II	\$75.00
11.5-43	Prohibition of smoking outdoors in City parks	II	\$75.00

18-20(28)	Prohibition of smoking outdoors in all City parks	II \$75.00
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Second violation of the same Class I or Class II offense shall be double the amount shown on the penalty schedule.

Third and subsequent violations of the same Class I or II offense shall require a mandatory court appearance. Second and subsequent violations of the same Class III or Class IV offense shall require a mandatory court appearance.

ARTICLE IV - RESTRICTION OF OUTDOOR SMOKING AT A CITY FACILITYIES AND CITY PROPERTY AND AT RTS BUS STOPS AND BUS SHELTERS

Sec. 11.5-40 – Purpose and Definitions.

The purpose of this article is to regulate outdoor smoking at city facilities and property. Outdoor smoking at city facilities and property is a danger to health and is a material annoyance, inconvenience, discomfort, and health hazard to children and other members of the public. As stated in section 11.5-16, regulation of indoor smoking is preempted to the State.

Bus and *vehicle* shall mean a bus or motor vehicle operated by RTS for the purpose of transporting passengers.

Bus shelter shall mean any designated place, characterized by a roofed or partially roofed structure, where a RTS bus stops to pick up or let off passengers.

Bus stop shall mean any designated place where a RTS bus stops to pick up or let off passengers. Bus stops may be designated by the placement of a sign or bench.

City parks are those areas listed in Chapter 18 of the City Code and any other areas officially designated by the city commission as a park and posted as such.

Smoke or *smoking* shall mean the intake and exhalation by a person of smoke from tobacco, a tobacco substitute or other weed or plant, and also possessing, carrying, holding or otherwise having control of a lighted pipe, cigar, cigarette or other lighted smoking equipment. In addition, for purposes of this article, smoke or smoking shall include the use of a nicotine dispensing device as defined in section 11.5-17.

Sec. 11.5-41 - Prohibition of smoking at Rosa Parks RTS Downtown Station.

A person may not smoke on, at or in the municipal transit transfer station, known as the Rosa Parks RTS Downtown Station, except in a specific location designated by the city manager as a smoking permitted area. ~~The smoking permitted area shall be clearly and conspicuously posted as provided in section 11.5-42, and~~ If the city manager designates a smoking permitted area, it shall not exceed ten percent of the total area of the Rosa Parks RTS Downtown Station. The area shall be posted as a smoking permitted area with signs that delineate the boundaries of the area and state that smoking is permitted in such area.

Sec. 11.5-41.142. - Prohibition of smoking at or around all RTS bus stops and bus shelters.

- (1) A person shall not smoke at or within 20 feet of any RTS bus stop or bus shelter.
- (2) This section shall not apply to pedestrians, drivers or passengers of a motor vehicle, non-motorized vehicle, or bicycle on a public street, sidewalk or thoroughfare while actively passing on the way to another destination.
- (3) This section shall not apply to persons who are within 20 feet of a bus stop or bus shelter while lawfully occupying private real property.
- (4) This section is supplemental and in addition to the prohibitions of smoking near school property as provided in F.S. § 386.212.

Sec. 11.5-42. – Posting of signs at the Rosa Parks RTS Downtown Station.

- ~~(1) If the city manager designates a smoking permitted area at the Rosa Parks RTS Downtown Station, such area shall be conspicuously posted as a smoking permitted area with signs stating that smoking is permitted in such an area. Such signs shall delineate the boundaries of such area.~~
- ~~(2) Each sign posted pursuant to this section shall have letters at least four inches high with the principal strokes of letters no less than one half inch wide.~~

Sec. 11.5-43 – Prohibition of smoking in city parks.

A person shall not smoke within a city park.

Sec. 11.5-42.144. - Posting of no smoking signs at all ~~RTS bus stops and bus shelters~~.

(1) The city manager or designee is authorized to install appropriate signage ~~at all bus stops and bus shelters~~ in all locations that smoking is prohibited.

(2) Such signage shall consist of "No Smoking" or "Smoke Free" signs with letters not less than one inch in height, or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

Sec. 11.5-4345. - Penalties.

The provisions of article IV, may be enforced by civil citation as provided in chapter 2, article V, division 6 of this Code.