

ORDINANCE 18-05

AMENDING THE NORTH BEACH TOWN CODE
CHAPTER 86, "PEACE AND GOOD ORDER",
TO ENACT SECTION 86-5.1, "SMOKING ON TOWN PROPERTY",
PROHIBITING SMOKING ON SPECIFIED TOWN PROPERTY AND
TO AMEND SECTION 86-6, "PENALTIES", TO PROVIDE AN
ADDITIONAL SANCTION FOR A VIOLATION OF SECTION 86-5.1.

WHEREAS, pursuant to Md. Code Ann., Local Gov't. Article, § 5-202, the Town of North Beach, Maryland ("the Town") has the authority to adopt such ordinances as it deems necessary to assure the good government of the Town; protect and preserve the Town's rights, property, and privileges; and preserve peace and good order; and

WHEREAS, pursuant to Local Gov't Article, § 5-209(c) the Town has the specific authority to prevent and remove nuisances; and

WHEREAS, pursuant to this authority, the Town enacted Chapter 86, "Peace and Good Order", which prohibits certain specified conduct; and

WHEREAS, medical studies have shown that exposure to secondhand smoke from tobacco causes illness and disease, including lung cancer, heart disease, and respiratory illness and the Town Council recognizes that tobacco smoke poses a grave and substantial threat to the public health, safety and welfare, and causes annoyance and discomfort to many members of the public; and

WHEREAS, the Town has an interest in protecting members of the public generally from the adverse impacts of secondhand tobacco smoke and from the annoyance and other adverse impacts of other noxious gases and vapors; and

WHEREAS, the Town desires to amend Town Code, Chapter 86, to prohibit smoking and vaping on certain Town property.

Section 1. NOW THEREFORE BE IT ORDAINED AND ENACTED by the Council of the Town of North Beach, Maryland, that North Beach Town Code, Chapter 86, "Peace and Good Order", be and hereby is amended to add Section 86-5.1, "Smoking on Town Property", as follows:

SEC. 86-5.1. SMOKING PROHIBITED.

A. DEFINITIONS.

(1) "SMOKING" IS THE POSSESSION OF A LIGHTED OR IGNITED TOBACCO, NICOTINE OR MARIJUANA PRODUCT OR PARAPHERNALIA; AN ACT THAT GENERATES SMOKE (INCLUDING, BUT NOT LIMITED TO, POSSESSING A LIGHTED OR IGNITED PIPE, HOOKAH PIPE, CIGAR, ELECTRONIC CIGARETTE OR CIGARETTE OF ANY KIND); OR LIGHTING OR IGNITING A PIPE, HOOKAH PIPE, CIGAR, ELECTRONIC CIGARETTE OR A CIGARETTE OF ANY KIND. SMOKING INCLUDES THE USE OF ANY PRODUCT THAT EMITS SMOKE IN THE FORM OF GASES, PARTICLES, VAPORS OR OTHER BY-PRODUCTS RELEASED BY ELECTRONIC CIGARETTES, TOBACCO CIGARETTES, HERBAL CIGARETTES, MARIJUANA CIGARETTES AND ANY OTHER TYPE OF CIGARETTE, PIPE OR OTHER IMPLEMENT FOR THE PURPOSE OF INHALING VAPORS, GASES, PARTICLES OR THEIR BY-PRODUCTS RELEASED AS A RESULT OF COMBUSTION OR IGNITION.

(2) "VAPING" IS THE HEATING OF NICOTINE, CANNABIS OR FLAVORED AEROSOLS, THE ACTIVE INGREDIENTS IN WHICH ARE VAPORIZED AND THEN RELEASED INTO THE AIR IN A FINE MIST CREATED BY A VAPORIZER DEVICE.

B. PROHIBITED CONDUCT. SMOKING AND VAPING ARE PROHIBITED ON THE FOLLOWING TOWN PROPERTIES:

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- (1) THE TOWN BEACH
- (2) CALLIS PARK
- (3) WETLANDS OVERLOOK PARK
- (4) SUNRISE GARDENS PARK

C. EXCEPTION. SMOKING AND VAPING ARE PERMITTED INSIDE A VEHICLE THAT IS PARKED IN A PARKING LOT, PROVIDED THAT THE DOORS AND WINDOWS OF THE VEHICLE ARE COMPLETELY CLOSED.

D. OTHER LAWS. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE SMOKING OR VAPING IN VIOLATION OF ANY FEDERAL OR STATE LAW OR REGULATION.

E. SIGNS. THE MAYOR IS AUTHORIZED TO POST SIGNS ON TOWN PROPERTY SUBJECT ON WHICH SMOKING AND VAPING IS PROHIBITED BY THIS SECTION, NOTIFYING THE PUBLIC OF SAID PROHIBITIONS AND OF THE PENALTIES FOR VIOLATIONS THEREOF AS SET FORTH IN SECTION 85-6 OF THIS CHAPTER.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Council of the Town of North Beach, Maryland, that North Beach Town Code, Chapter 86, "Peace and Good Order", be AND HEREBY IS AMENDED TO ADD SECTION 86-6, "PROPERTY", AS FOLLOWS:

SEC. 85-6. VIOLATIONS AND PENALTIES.

A. Any person violating any of the provisions of §§ 86-1 or 86-2 of this chapter shall be guilty of a misdemeanor, punishable as provided in Chapter 1, General Provisions, Article III, Penalties. Where the offense is of a continuing nature, each separate day's

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violation shall be deemed a separate offense.

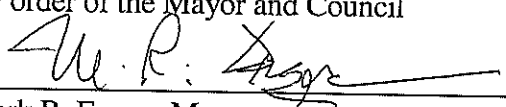
B. Violations of any other sections of this chapter shall be a municipal infraction, punishable as provided in Chapter 1, General Provisions, Article III, penalties.

C. A VIOLATION OF SECTION 86-5.1 IS DECLARED TO BE A PUBLIC NUISANCE AND, IN ADDITION TO ANY FINE OR OTHER PUNISHMENT IMPOSED PURSUANT TO SUBSECTIONS A. AND B OF THIS SECTION, ANY PERSON WHO VIOLATES SECTION 86-5.1 SHALL BE SUBJECT TO EJECTION FROM THE TOWN PROPERTY ON WHICH SUCH VIOLATION HAS OCCURRED.


D. A PERSON WHO HAS COMMITTED THREE OR MORE VIOLATIONS OF SECTION 86-5.1 MAY BE BANNED BY THE MAYOR FROM THE TOWN PROPERTY OR PROPERTIES ON WHICH SUCH VIOLATIONS HAVE OCCURRED FOR A PERIOD OF ONE YEAR IF DEEMED NECESSARY BY THE MAYOR IN ORDER ADEQUATELY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE. A PERSON WHO ENTERS UPON PROPERTY FROM WHICH HE OR SHE HAS BEEN BANNED PURSUANT TO THIS SUBSECTION SHALL BE GUILTY OF A SEPARATE MUNICIPAL INFRACTION PUNISHABLE AS PROVIDED IN CHAPTER 1, GENERAL PROVISIONS, ARTICLE III, PENALTIES.

AND, BE IT FURTHER ORDAINED that this Ordinance shall become effective on the 2nd day of October, 2018 after having been read at two successive Town Council meetings pursuant to 19-311 of the Town Charter.

By order of the Mayor and Council


Mark R. Frazer, Mayor

ATTEST:


Stacy L. Wilkerson, Town Clerk

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