

**LOCAL LAW NO. \_\_\_\_\_ OF 2021**

**BOARD OF TRUSTEES  
VILLAGE OF OCEAN BEACH**

A Local Law Adopting  
Amendments to Chapter 123  
of the Village Code With  
Regards to Smoking in and  
around the Village of Ocean  
Beach

**WHEREAS**, The Board of Trustees (the “Board”) of the Village of Ocean Beach (the “Village”) hereby finds and determines that the public’s health and wellbeing is seriously threatened by exposure to second-hand smoke and other perilous implications associated with smoking;

**WHEREAS**, the Federal Environmental Protections Agency has made clear that second-hand smoke is a human carcinogen responsible for countless cases of lung cancer and premature deaths each year in nonsmoking adults;

**WHEREAS**, the Village’s primary source of litter in beaches and recreational areas is improperly discarded cigarette butts and other smoking paraphernalia;

**WHEREAS**, these improperly discarded cigarette butts and paraphernalia are known to release harmful and toxic chemicals which have a deleterious effect on the environment, water quality, wildlife, and public;

**WHEREAS**, the Board further finds and determines that individuals be exposed to second-hand smoke and toxic chemicals as they seek to enter, use, and enjoy certain of the Village’s beaches and recreational open areas;

**WHEREAS**, the Board declares and finds it to be in the public's interest to provide for regulation prohibiting smoking and tobacco use by persons in the Village, except for Designated Smoking Areas; and

**WHEREAS**, by prohibiting smoking in the Village, the Village desires to promote and enhance the healthy, wholesome, and thriving environment and its safe enjoyment by all individuals, especially children;

**BE IT THEREFORE ENACTED**, by the Board of Trustees of the Incorporated Village of Ocean Beach, as follows:

**Section 1.** Chapter 123 of the Village Code, entitled “Peace and Good Order”, is hereby amended as follows:

Article II. Regulation of Smoking ~~in Certain Public Areas.~~

**§ 123-18. Definitions.**

As used in this chapter the following terms phrase, words, and their derivatives shall have the meanings given:

SMOKING – The use, burning, inhaling, exhaling, vaping or other discharging of any substance including, but not limited to, tobacco, tobacco substitutes, **cannabis, cannabis-derived products,** oils, herbs, fruits, and spices and also carrying of any lighted or burning smoking device.

SMOKING DEVICE – Any product or device used or intended to be used to facilitate smoking, including, but not limited to, cigarettes, cigars, cigarillos, pipes, pipe filler, waterpipes, bongs, rolling papers, or similar products.

DESIGNATED SMOKING AREA – Any public area conspicuously designated “Smoking Permitted” by a sign, receptacle, or otherwise, where smoking of legal substances are permitted.

**§ 123-19. Smoking prohibited.**

- A. It shall be a violation of this chapter for any person to smoke at the following locations within the Village of Ocean Beach:
- (1) A Village-owned, leased, operated, or maintained beach, recreational area, park, and any adjacent waterfront area.
  - (2) **Any Village-owned, leased, operated or maintained property open to the public, including but not limited to open spaces.**
  - (3) **Public sidewalks and rights-of-way within the Village.**
  - (4) Any area within a fifty-foot radius of all entrances to any of the areas listed in section 123-19(A)(1), **123-19(A)(2) and 123-19(A)(3).**
- B. **Notwithstanding subdivision A of this section,** the Board **of Trustees,** or the Building Superintendent, with the advice of the Board **of Trustees,** may establish designated smoking areas if it is determined that there is a public need for such.

**§ 123-20. Penalties for offenses.**

Any person who commits or permits any act in violation of section 123-19 of this article shall be deemed to have committed an offense against this article and shall be liable for such violation and the penalty therefore and shall, upon final judgment thereof, be subject to a fine or penalty of not less than \$25 and not more than \$500.

**§ 123-21. Severability.**

If any clause, paragraph, subdivision, section or part of this article or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this article, or in its application to the person, individual, corporation, firm partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 2.** This local law shall take effect immediately upon filing with the Office of the Secretary of State.