

ORDINANCE NO. 832

AN ORDINANCE PROHIBITING SMOKING IN CLEAR LAKE PUBLICLY-OWNED OUTDOOR PARKS, CITY BEACH, N. LAKEVIEW DRIVE PROMENADE, THREE STARS PLAZA, AND OTHER RECREATION AREAS IN THE CITY OF CLEAR LAKE, IOWA

Whereas, the City Council of the City of Clear Lake, Iowa, desires to adopt an ordinance to prohibit smoking in publicly-owned parks and recreation areas, City Park, City Beach, Three Stars Plaza, Lakeview Drive Promenade, Dog Park, Armour Pugh Park, Clear Lake Aquatic Center, Country Club Heights Park D.A.R. Park, Fieldstone Park, MacGowan Park, Marian Park, Municipal Tennis Courts, O.R.C. (Outlet Recreation Complex), Pine Tree Park, Public Boat Ramps, Public Accesses, Public Access Docks, City Beach Splash Pad, Tourist Park, Triangle Park, and the former Main Avenue Water Tower open space area.

Now, Therefore, Be It Ordained by the City Council of the City of Clear Lake, Iowa, as follows:

1. **NEW SECTION.** A new section shall be and is hereby added to Chapter 47 "Park Regulations", of the Clear Lake Municipal Code of Ordinances, which shall be known as Section 47.09, entitled, "Smoking Prohibited in Certain Public Places" to read as follows:

A. **Findings and Intent.** The Clear Lake City Council finds that:

1. Numerous studies have found that tobacco smoke is a major contributor to outdoor pollution and breathing secondhand smoke is a cause of disease in healthy non-smokers.
2. Second-hand smoke is particularly hazardous to children, the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructed airway disease.
3. The smoking of tobacco products is also a form of air pollution, a danger to health and a material public nuisance.
4. As a result, the Clear Lake City Council has adopted the foregoing as justification for this Section with the purpose of protecting the public health and welfare by prohibiting smoking in certain public places, which are more specifically defined below, to guarantee the right of non-smokers to breathe smoke-free air and to recognize the public's need to breath smoke-free air as a priority over an individual's desire to smoke.

B. **Definitions.** The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section.

1. **Smoke-Free Publicly-owned Outdoor Parks & Recreation Facilities** - shall mean all of City Park, City Beach, Three Stars Plaza, Lakeview Drive

Promenade, Dog Park, Armour Pugh Park, Clear Lake Aquatic Center, Country Club Heights Park D.A.R. Park, Fieldstone Park, MacGowan Park, Marian Park, Municipal Tennis Courts, O.R.C. (Outlet Recreation Complex), Pine Tree Park, Public Boat Ramps, Public Accesses, Public Access Docks, City Beach Splash Pad, Tourist Park, Triangle Park, and the former Main Avenue Water Tower open space area.

2. **Smoking** - means inhaling or exhaling from any lighted or heated pipe, cigar, cigarette, or any other lighted or heated tobacco, plant material, liquids, oils, nicotine, or other chemicals that may be inhaled by the user.
3. **Tobacco Product** – means any cigarette or tobacco product as defined in Chapter 453A of the Iowa Code.
4. **Electronic Smoking Device** – means any device, including but not limited to: e-cigarettes; e-pens; e-hookah; e-cigars; and vape pens used to vaporize plant material, liquids, oils, nicotine, or other chemicals that may be inhaled by the user.

C. **Smoking Prohibited.** Smoking is hereby prohibited in all smoke-free publicly-owned outdoor parks and recreation facilities as defined and enumerated herein.

D. **Signage.** A conspicuous sign clearly stating that smoking is prohibited shall be posted at each beach entrance; along the N. Lakeview Drive Promenade; and at all other smoke-free publicly-owned parks & outdoor recreation facilities, as enumerated herein. The international “No Smoking” symbol may also be used, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

E. This Chapter does not apply to the use of FDA approved products for the purpose of tobacco cessation.

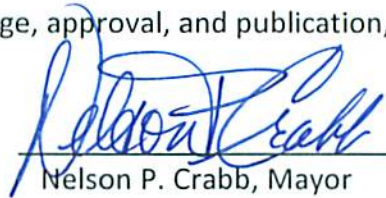
F. **Enforcement.** This Ordinance shall be enforced by the Clear Lake City Police Department, with the support and assistance of the Clear Lake City Fire Department and Parks & Recreation Department.

G. **Violations and Penalties.** Any violation of Section 47.09 shall be considered a civil penalty, with a \$50 scheduled fine. Each occurrence shall be considered a separate offense.

2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

4. This Ordinance shall be effective upon its passage, approval, and publication, as required by law.



Nelson P. Crabb, Mayor

ATTEST:



Jennifer Larsen, City Clerk

1st reading: September 18, 2017

2nd reading: October 2, 2017

Final reading: October 16, 2017