



**INTRODUCED BY:
COUNCILOR MESSINGER**

ORDINANCE NO. 2023-02

A BILL TO BE ENTITLED

AN ORDINANCE CREATING SECTION 14-12, CHAPTER 14 (OFFENSES); GOVERNING WASTE FROM TREE TRIMMING AND REMOVAL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 1.03 of the City Charter, the City is vested with all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or the City Charter; and

WHEREAS, such powers include the powers to regulate business operating within the City in any legal manner not preempted by the State of Florida; and

WHEREAS, the City has observed an increase in the number of trees being removed and placed on the curb or in the right-of-way for pickup (“debris”); and

WHEREAS, the placement and storage of such items in the right-of-way constitute a hazard to traffic, impair emergency and utility access, and otherwise pose a threat of harm to the public;

WHEREAS, to address the concerns provided above, the City Council determines that a prohibition on the storage of such debris by commercial businesses on the curb or in the right-of-way is in the best interest of the City;

WHEREAS, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City, that it advances a significant and important governmental interest, and that it furthers the City’s performance of municipal functions and rendering of municipal services.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Creating Section 14-12, Waste from tree trimming and removal. Creating Section 14-12, Waste from tree trimming and removal, Chapter 14 (Offenses), City of Neptune Beach Code of Ordinances as follows:

Sec. 14-12. – Debris from tree trimming and removal.

(a) Commercial businesses engaged in the cutting, pruning, removal, alteration, or trimming of trees (“Alteration”) shall be responsible for disposing of the debris from the Alteration. No debris from such Alteration shall be placed in any residential or commercial refuse container or set out for curbside pickup, or otherwise placed on the curb or within the right-of-way for any period whatsoever.

(b) Commercial businesses engaged in clearing land in preparation for construction or clearing and/or cleaning a vacant lot shall be responsible for disposing of the debris from such land clearing and/or cleaning. No debris from such operations shall be placed in any residential or commercial refuse container or set out for curbside pickup, or otherwise placed on the curb or within the right-of-way for any period whatsoever.

(c) Anyone subject to the provisions of this section shall immediately notify the City upon commencement of removal of debris for the purpose of permitting the City to determine that the debris is removed in accordance with this section. Such obligation shall not be construed as an obligation to notify the City of the pruning, trimming, or removal of the tree, but notice as to the disposal of the debris.

(d) For purposes of this section:

- (i) Each separate tree for which all or a portion of the tree’s debris is placed in violation of this section shall constitute a separate violation;
- (ii) Each failure to notify as required above shall be a separate violation; and
- (iii) Repeat violations shall be determined based on the offender, not the property owner. For clarification, if anyone is determined to have violated this provision, any further violation, whether an additional tree on the same property or associated with a separate property, shall be considered a separate violation.

(e) Penalties. The fine for a first violation shall be up to \$250.00 per day, or the maximum allowed by law if such amount is greater. The fine for any repeat violation shall be up to \$500.00 per day, or the maximum allowed by law if such amount is greater. In imposing the fine, the magistrate should consider (i) the gravity of the violation; (ii) any actions taken by the violator to correct the violation; (iii) any previous violations committed by the violator; and (iv) whether such party violated any other provision of the Code or Florida law in the course of conducting its business.

Section 2. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance,

and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date. This Ordinance shall become immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown
Councilor Kerry Chin
Councilor Josh Messinger
Councilor Lauren Key
Councilor Nia Livingston

Passed on First Reading this _____ day of _____, 2023.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown
Councilor Kerry Chin
Councilor Josh Messinger
Councilor Lauren Key
Councilor Nia Livingston

Passed on Second and Final Reading this _____ day of _____, 2023.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC, City Clerk

Approved as to form and
correctness:

Zachary Roth, City Attorney



Agenda Item # 8B
 Ord. No. 2023-03
 Smoking and Vaping in Public
 Parks and Beaches

**CITY OF NEPTUNE BEACH
 CITY COUNCIL MEETING
 STAFF REPORT**

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| AGENDA ITEM: | Item #8B, <u>Ordinance No. 2023-03, First Read and Public Hearing</u> , An Ordinance of the City of Neptune Beach, Florida, Creating Sections 18-10 through 18-13, Article II, Smoking, Chapter 18, Streets, Sidewalks and Other Places; Prohibiting Smoking and Vaping in Public Parks and Beaches within the City; Providing for Conflicts; Providing for Severability; and Providing an Effective Date |
| SUBMITTED BY: | Mayor Elaine Brown |
| DATE: | April 26, 2023 |
| BACKGROUND: | <p>Florida Statutes Section 386.209, authorizes municipalities to regulate smoking within the boundaries of their public beaches and public parks, with certain restrictions.</p> <p>Jacksonville Beach and Atlantic Beach have both enacted legislation pursuant to Section 386.209. Both ordinances are attached.</p> <p>This was discussed at the April 17, 2023, Council Workshop and an ordinance is being presented for First Read at this meeting.</p> |
| BUDGET: | N/A |
| RECOMMENDATION: | Consider Ordinance No. 2023-03, at First Read on May 1, 2023 |
| ATTACHMENT: | Ordinance No. 2023-03, An Ordinance Creating Sections 18-10 through 18-13, Chapter 18, Article II, Smoking |