

**Amended Ordinance No. 03 – 20**

**By: Matt Klingler**

**An ordinance to amend Chapter 662 and 1062 of the codified ordinances,  
in order to prohibit smoking in public parks.**

**WHEREAS,** Smoking in public parks results in litter from cigarette butts and tobacco packaging; and

**WHEREAS,** Smoking in the vicinity of other individuals can constitute a noxious condition that is detrimental to human health and quiet enjoyment;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:**

**Section 1.**

That 662.01 and 662.02 be amended as follows:

**662.01 DEFINITIONS.**

As used in this chapter:

(a) "Business" means a sole proprietorship, partnership, association, joint venture, corporation or any limited liability form of any of the foregoing, or any other entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, financial, counseling, or other professional or consumer services are provided.

(b) "Employee" means a person who is employed by an employer, or who contracts with an employer or who contracts with a third person to perform services for an employer, or who otherwise performs services for an employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services to such employer for no monetary compensation.

(c) "Employer" means an individual person, business, partnership, association, corporation, including a municipal corporation, trust or any non-profit entity that accepts the provision of services from one or more employees.

(d) "Enclosed area" means all space closed in by a roof or other overhead covering of any kind and walls or other side coverings of any kind on at least three sides with appropriate openings for ingress and egress.

(e) "Place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, private offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways, hallways, factories, warehouses, garages, laboratories, taxis, limousines, and

company-owned vehicles used for a business purpose. An enclosed area as described herein is a "place of employment" without regard to time of day or actual presence of employees. "Place of employment" only includes private residences, whether single or multifamily, if used as a child care, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that person as an employer with respect to the use of that private residence; provided, however, that private residences are exempt from this chapter to the extent that the person providing the services is providing housecleaning, home maintenance or personal care services in the private residence.

(f) "Proprietor" means the owner, manager, operator, liquor permit holder or other person in charge or control of a public place or place of employment.

(g) "Public place" means an enclosed area to which the public is invited or in which the public is permitted and includes service lines. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

(h) "Public park" means any City-owned or City-controlled park or recreational lands open to the public, including, but not limited to, playgrounds, restrooms, shelter houses, pavilions, outdoor pools, outdoor patios, athletic fields, pedestrian and bike paths/trails, wooded areas, parking lots, entertainment and performance areas, bleachers, passive green space, and sitting/standing areas. Public park also includes the entire parcel or parcels of land upon which such facilities are located as well as the open areas in such parks.

(i) "Service line" means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money. (Ord. 52-04. Passed 9-14-04.)

(j) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other smoking equipment in any manner or in any form. "Smoking" also includes the use of electronic smoking devices. "Smoking" does not include the burning or carrying of incense in a religious ceremony." (Ord. 23-15. Passed 6-23-15.)

(k) "Smoking materials" means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.

(l) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work function.

(m) "Retail tobacco store" means a retail store used primarily for the sale of smoking materials and smoking accessories and in which the sale of other products is incidental. "Retail tobacco store" does not include a tobacco department of a larger commercial establishment such as a department store, discount store or bar.

(n) "Outdoor patio" means an outdoor area, open to the air at all times, that is either:

(1) Enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or

(2) Has no roof or other overhead covering at all regardless of the number of walls or other side coverings.

(o) "Private club" means a club as that term is defined in Ohio R.C. 4301.01(B)(13) and that is organized as not for profit.

(p) "Electronic Smoking Device" means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

## **662.02 PROHIBITIONS.**

(a) No proprietor of a public place or place of employment shall permit smoking in said public place or place of employment within the City except as provided in Section 662.02.

(b) All enclosed areas, including buildings and vehicles owned, leased or operated by the City, shall be subject to the provisions of this chapter.

(c) All Public parks, as defined in this chapter, shall be subject to the provisions of this chapter, excepting that the Recreation and Parks Board may, but is not obligated to, designate a defined smoking area adjacent to Jeffrey Mansion.

(d) All areas immediately adjacent to the ingress and egress of any enclosed area shall be subject to the provisions of this chapter so as to ensure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means.

## **Section 2.**

That 1062.07 be amended as follows:

### **1062.07 ALCOHOLIC BEVERAGES, DRUGS, AND SMOKING**

(a) No person shall take into or upon any public park any alcoholic beverage, narcotic drug or opiate. No person under the influence of alcohol, narcotic drugs or opiates shall be allowed to enter or remain within any public park. Notwithstanding the foregoing, the Board may permit the use of alcoholic beverages in the Jeffrey Mansion building and immediate grounds subject to a Council-approved Jeffrey Mansion alcohol policy framework. Said alcohol policy framework shall specify the restrictions applicable to the use of alcohol at the Mansion, as well as the locations on the immediately surrounding grounds where alcohol use may be permitted. Notwithstanding whether Council has approved a Jeffrey Mansion alcohol policy framework or the Recreation Board has approved a Jeffrey Mansion alcohol policy, the Board may permit the use of alcoholic beverages in the Jeffrey Mansion building only for Board approved events, no more than twice in a calendar year.

(b) Smoking, as defined in Chapter 662, is prohibited in all public parks (as defined in Chapter 662), excepting that the Recreation and Parks Board may, but is not obligated to, designate a defined smoking area adjacent to Jeffrey Mansion.

## **Section 3.**

That this Ordinance shall go into effect and be in full force from and after the earliest period allowed by law.

Passed: Feb 25, 2020

Attest: William Harvey  
William Harvey, Clerk of Council

Lori Ann  
Lori Ann, President of Council

Approved: Feb 25, 2020

Ben Kessler  
Mayor Ben Kessler

First Reading: 1-14-20  
Second Reading: 1-28-20  
Third Reading: 2-11-20  
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