

FARGO PARK DISTRICT
SMOKING AND TOBACCO ORDINANCE

WHEREAS, secondhand smoke and the use of tobacco-related products in and near the same areas as children and adults is harmful to the overall health and wellness of those individuals; and

WHEREAS, secondhand smoke and the use of tobacco products can be particularly harmful to children, and the ingestion of nicotine, including the ingestion of cigarette butts, is considered potentially toxic and can cause nicotine poisoning; and

WHEREAS, the Fargo Park District's mission is to provide quality recreational and leisure services at an affordable price to improve the quality of life for all residents of Fargo; and

WHEREAS, the Fargo Park District desires to further its mission by protecting the residents of Fargo and others using its facilities against the dangers of secondhand smoke and tobacco-related products; and

WHEREAS, the Fargo Park District, in an effort to achieve the foregoing, has determined that the prohibition of smoking and use of other tobacco-related products at such times and within such places and facilities owned by the Fargo Park District is necessary to protect users of such facilities; and

WHEREAS, the Fargo Park District desires to revise its No Smoking Policy to reflect its desire to protect those persons using its facilities against the dangers of secondhand smoke and tobacco-related products by limiting the use thereof to the times and places set forth herein.

THEREFORE, BE IT RESOLVED, after careful consideration of the above statements, the following Smoking and Tobacco Ordinance is hereby adopted by and for the Fargo Park District:

Smoking and Tobacco Ordinance

1. Except as may otherwise be modified by this Ordinance, the provisions of Sections 23-12-09 through 23-12-11 of the North Dakota Century Code, as well as those provisions contained in Article 10-11 of the Fargo, North Dakota Code of Ordinances, are hereby adopted by the Fargo Park District, and shall be incorporated into this Ordinance by reference.
2. No person shall smoke, possess or otherwise carry a lighted cigarette, cigar, pipe, electronic cigarette ("e-cigarette" or "e-cig"), hookah, or other form or apparatus used for the inhalation of smoke or the ingestion of tobacco-related products, nor shall any person use chewing or smokeless tobacco, dispose of cigarette, cigar or pipe ash, dispose of cigarette or cigar butts, or dispose of any other tobacco-related waste, on or within 25 feet of any of the areas described in Schedule A (the "Prohibited Areas").

3. Use of tobacco-related products shall only be permitted within those areas designated as such, and shall include those areas described in Schedule B (the “Permitted Areas”).
4. The Fargo Park District reserves the right to designate and/or change an area or facility to a Prohibited Area.
5. The Fargo Park District reserves the right to designate an event organized, hosted or sponsored by the Fargo Park District as a “Smoke Free Event.” In determining whether an event shall be designated as a Smoke Free Event, the Fargo Park District may consider the following:
 - a. The age of prospective attendees and/or participants (paying particular attention to the likelihood that attendees and/or participants will be younger than eighteen years of age).
 - b. The risk of exposure to children and nonsmokers of secondhand smoke and tobacco-related products at the event.
 - c. The location of the event.
 - i. If a particular event is located at or near an area or facility that may be used or occupied by children or nonsmokers, consideration should be given to the comfort, safety and wellbeing of those individuals.
 - ii. If a particular event is not located upon property owned or operated by the Fargo Park District, consideration should be given to the desires of the property owner in permitting or prohibiting smoking, as well as to the safety and wellbeing of individuals who are either children or nonsmokers at such an event.
 - d. Any other impact, whether negative or positive, that may occur when designating an event as a Smoke Free Event.

In designating an event as a Smoke Free Event, the Fargo Park District shall take reasonable steps to ensure that attendees and participants have notice that such event is a Smoke Free Event.

6. Enforcement
 - a. Signs and other appropriate notification measures shall be used to give notice that smoking is prohibited in a particular area or during a particular event.
 - b. When applicable, the community, facility users and staff members shall be notified of the Fargo Park District’s Smoking and Tobacco Ordinance within such contracts and/or user agreements as may be used from time to time.

- c. Any person who is found to be in violation of this Smoking and Tobacco Ordinance shall be subject to immediate ejection from the property or event, and a person's failure to leave the area may result in trespass liability.
- d. Any complaints regarding the implementation and/or enforcements of this Smoking and Tobacco Ordinance shall be referred to the Fargo Park District.

SCHEDULE A

Prohibited Areas

1. Indoor Facilities;
2. Bathrooms;
3. Bleachers (Outdoor Confined Spaces);
4. The Children's Museum at Yunker Farm;
5. Outdoor concession areas;
6. Outdoor skating rinks, including hockey and broomball areas;
7. Outdoor tennis courts;
8. Indoor and outdoor playgrounds;
9. Indoor and outdoor swimming pools and splash parks;
10. School Sites/Shared School Facilities;
11. Skate Parks;
12. Sledding hills;
13. Sand Volleyball Courts;
14. El Zagal Golf Course;
15. Red River Zoo; and
16. Youth designated special events held on Fargo Park District property or sponsored by the Fargo Park District, whether indoor or outdoor;

SCHEDULE B

Permitted Areas

1. Outdoor athletic complexes;*
2. Bike and walking trails;
3. Campgrounds;
4. Conservancy parks;
5. Dog parks;
6. Golf courses excluding El Zagal;*
7. Disc golf courses;*
8. Cross country ski and snow shoe trails;
9. Open park areas;*
10. Parking lots;
11. Rheault Farm;*
12. Shelters/air open structures; and
13. Any area not previously listed on prohibited list.

*No smoking during all youth events, programs and leagues, whether sponsored by the Fargo Park District or hosted privately on property owned by the Fargo Park District, to include but not be limited to youth soccer, football, basketball, baseball, softball, tennis, swimming, and volleyball. Youth events will be determined by Fargo Park District staff.