

ARTICLE XI. - SMOKING IN PUBLIC PLACES

Dec. 5, 2017, repealed the former Art. XI, §§ 10-11-10 to 10-11-50, and enacted a new Art. XI as set out herein. The former Art. XI pertained to similar subject matter and derived from prior Code and Ord. 2013-23.

Sec. 10-11-10. - Legislative declaration.

The City hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco and marijuana smoke in City parks and trails. The City further finds and determines that a balance should be struck between the health concerns of non-consumers of tobacco and marijuana products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco and marijuana products in certain designated public areas. Therefore, the City hereby declares that the purpose of this Article is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco and marijuana smoke.

Sec. 10-11-20. - Definitions

As used in this Article, the following words and phrases are defined as follows:

Electronic smoking device means any device that when activated emits a vapor, aerosol, or smoke or can be used to deliver nicotine or any other substance to the person inhaling from the device, including, but not limited to e-cigarettes, e-cigars, e-pipes, vape pens, e-hookahs, inhalant delivery systems or any other similar product by any other name or descriptor. An electronic smoking device includes any component, part or accessory of such device whether or not sold separately, regardless of nicotine content or any other substance intended to be vaporized or aerosolized for human inhalation during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Entrances/exits means the passageways by which persons may enter or exit a building or facility, typically consisting of a door or doorway. For the purposes of this chapter, this includes the stoop, steps, or ramp leading from the sidewalk or pavement to such a door or doorway.

Indoor public place means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Marijuana shall have the same meaning as set forth in Section 6-3-10 of this Code.

Outdoor public place means any area not specifically characterized as an indoor public place.

Public area means City parks and City trails and any building owned or operated by the City except the Steam Plant.

Reasonable distance means a distance that ensures that people located within an area where smoking and tobacco product use is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be a minimum of twenty-five (25) feet in any direction.

Smoke means the emissions or release of gases, particles, vapors or aerosols into the air from burning, heating or activation of any device, including, but not limited to a cigarette, electronic smoking device, e-cigarette, vape pens, e-hookahs or any other product by any name or descriptor when the apparent or usual purpose of burning, heating or activation of the device is human tasting and inhalation.

Smoking means the act of burning, heating, activation or carrying of any device, including, but not limited to a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device, by any other product name or descriptor, that results in the release of smoke, vapors or aerosols when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. Tobacco also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco product means:

- (a) Any product containing, made, or derived from tobacco or synthetic tobacco whether or not said product contains nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and
- (b) Any electronic smoking device; and
- (c) Notwithstanding any provision of subsections (a) and (b) to the contrary, "tobacco product" includes any component, part, or accessory of tobacco product, whether or not sold separately.

Sec. 10-11-30. - General smoking restrictions.

- (a) Smoking shall be prohibited in public areas as defined in Section 10-11-20 except any outdoor public place or area which has been designated and signed as a smoking area by the City.
- (b) Optional informational signage: A person, employer or other entity that has legal or defacto control of an area in which smoking and use of tobacco products and electronic smoking devices is prohibited by this Article may post "No Smoking and Use of Tobacco Products or Electronic Smoking Devices" signs as follows:
 - (1) At points of ingress to the area, and in other conspicuous location(s); and
 - (2) Signage with letters of no less than one (1) inch in height; and
 - (3) Signage posted on the exterior of buildings to comply with this section should include the reasonable distance requirements; and
 - (4) At least one (1) sign conspicuously placed in each place where smoking and the use of tobacco products and electronic smoking devices are prohibited with the City phone number where complaints can be directed.
 - (5) For purposes of this Section, the City Administrator or his/her designee shall be responsible for the posting of signs in regulated places owned or controlled in whole or in part by the City.
 - (6) Notwithstanding this provision, the presence or absence of signs shall not be a defense to a violation of any provision of this Article.