

**ORDINANCE NUMBER XXX**  
**ITASCA COUNTY, MINNESOTA**

**Prohibiting Electronic Delivery Devices in Public Places,  
Retail Environments and Places of Work**

The Itasca County Board of Commissioners ordains:

**SECTION I. Title.** This Ordinance shall be known and referenced as the Itasca County Ordinance Number \_\_\_\_\_ Prohibiting Electronic Delivery Devices in Public Places, Retail Environments and Places of Work.

**SECTION II. Purpose and Jurisdiction.**

**Subsection A.** The purpose of this Ordinance is to protect the health, safety and general welfare of the people of Itasca County from the adverse effects of electronic delivery devices, commonly referred to as electronic cigarettes, or e-cigarettes, which closely resemble and purposefully mimic the act of smoking by having users inhale aerosolized liquid nicotine or other substances created by heat through an electronic ignition system.

E-cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to smoke emitted by traditional tobacco products. Their use in workplaces and other public places where smoking is prohibited creates concern and confusion and leads to difficulties in enforcing smoking prohibitions.

After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. FDA testing also suggested that quality control processes used to manufacture these products are inconsistent or non-existent. (“Summary of results: Laboratory analysis of electronic cigarettes conducted by Food and Drug Administration,” July 22, 2009).

**Subsection B.** Pursuant to Minn. Stat. § 145A.05, this Ordinance applies throughout all of Itasca County, including the municipalities therein.

**Subsection C.** Nothing in this Ordinance shall prevent other local levels of government within Itasca County from adopting more restrictive measures to protect citizens from the dangers of electronic cigarettes or other electronic delivery devices.

**SECTION III. Definitions.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this Ordinance, the following definitions shall apply:

**“Electronic Delivery Device”** means any product containing or delivering nicotine, lobelia, marijuana or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol or vapor from the product. The term includes any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.

**“Indoor Area”** means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

**“Use”** means the inhaling or exhaling of aerosol or vapor from any electronic delivery device. Use shall also mean carrying an electronic delivery device that is turned on or otherwise activated.

#### **SECTION IV. Prohibition**

**Subsection A.** The use of any electronic delivery device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act, Minn. Stat. §§ 144.414-.417 and any amendments that may be made thereto.

#### **SECTION V. Smoking in Retail Tobacco Establishments**

For purposes of this section, “smoking” shall mean the inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco, plant, synthetic or other product, or inhaling or exhaling aerosol or vapor from any electronic delivery device. Smoking shall include being in possession of a lighted or heated cigar, cigarette, pipe, or any other tobacco, plant, synthetic or other product intended for inhalation, or an electronic delivery device that is turned on or is otherwise activated.

Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a tobacco retailer license. Smoking for the purposes of sampling tobacco, tobacco products, tobacco-related devices, or electronic delivery devices is prohibited.

#### **SECTION VI. Proprietors**

**Subsection A.** The proprietor or other person, firm, limited liability company, corporation, or other entity that owns, leases, manages, operates or otherwise controls an area subject to this Ordinance shall make reasonable efforts to prevent violations by:

- (1) Posting signs or by any other appropriate means;
- (2) Not providing any equipment where that would facilitate conduct prohibited by this Ordinance;

- (3) Refusing to serve or service an individual who is violation of this Ordinance; and
- (4) Asking any person who is acting in violation of this Ordinance to refrain and, if the person does not refrain after being asked to do so, asking the person to leave. If the person refuses to leave, the proprietor, person or entity in charge shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

Nothing in this Ordinance shall prohibit the proprietor or other person or entity in charge from taking more stringent measures than those contained in this Ordinance or the Minnesota Clean Indoor Air Act to protect individuals from secondhand smoke and the use of electronic delivery devices.

#### **SECTION VII. Other Applicable Laws**

This Ordinance is intended to complement the Minnesota Clean Indoor Air Act. Nothing in this Ordinance authorizes smoking or the use of an electronic delivery device in any location that is restricted by other applicable laws or regulations.

#### **SECTION VIII. Violations and Penalties**

**Subsection A. Use Where Prohibited.** It is a violation of this Ordinance for any person to smoke or use an electronic delivery device in an area where prohibited by this Ordinance, or where prohibited by a private policy as authorized by Section VI of this Ordinance.

**Subsection B. Proprietors.** It is a violation of this Ordinance for the proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area subject to this Ordinance to knowingly fail to comply with these provisions.

**Subsection C. Continued Violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

**Subsection D. Criminal Penalty.** A person who violates any provision of this Ordinance shall be guilty of a petty misdemeanor.

**SECTION IX. Severability.** If any portion of this Ordinance is held unenforceable, then such provision will be modified to reflect the purpose of this Ordinance. All remaining provisions of this Ordinance shall remain in full force and effect.

**SECTION X. Effective Date.** This Ordinance shall take effect \_\_\_\_\_.

Passed this \_\_\_\_ day of \_\_\_\_\_.

**COUNTY OF ITASCA**

**BY** \_\_\_\_\_

**Davin Tinquist, Chairman of the County Board**

**ATTEST:**

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Published this \_\_\_\_ day of \_\_\_\_\_, 2016.