



ORDINANCE 721

AN ORDINANCE AMENDING SUBSECTIONS 12-257, 12-258, 12-259, 12-260, AND 12-261 OF CHAPTER 12, ARTICLE X OF THE CODE OF ORDINANCES OF THE CITY OF THE VILLAGE PERTAINING TO THE USE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS ON MUNICIPAL PROPERTY; PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE VILLAGE

Section 1. That Chapter 12 of The Village City Code, Article X, Subsections 12-257, 12-258, 12-259, 12-260, and 12-261 are hereby amended to read as follows:

Sec. 12-257. Definitions.

The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- 1) *Indoor Area*: means any indoor property owned or operated by the City, The Village Development Authority (“TVDA”), or The Village Public Works Authority (“VPWA”). An Indoor Area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees of the public, and all space between and floor and ceiling that is predominately or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.
- 2) *Municipal Property*: means any equipment, vehicle, building, and property, including without limitation, Indoor Areas, Outdoor Areas, and Recreational Areas that are currently or at any time in the future owned, operated, and/or leased by the City, TVDA, or VPWA.
- 3) *Outdoor Area*: means any covered area, partially covered area or area open to the sky that is on property owned or operated by the City, TVDA, or VPWA.
- 4) *Recreational Area*: means any area that is owned, controlled or used by the City, TVDA, or VPWA and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes, but is not limited to, parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trail, swimming pools, splash pads, roller and ice-skating rinks, and skateboard parks.



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- 5) *Smoking*: means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- 6) *Smoke free*: means to prohibit the use of Tobacco Products by anyone, at any time, on Municipal Property.
- 7) *Tobacco Product*: means any product that contains tobacco and is intended for human consumption or otherwise introduced into the human body, which includes, but is not limited to, smoking tobacco, as used in pipes, cigarettes, and cigars, and any form of chewing or dipping tobacco. Tobacco Product does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product.
- 8) *Vapor Product*: means noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo or electronic device.

Sec. 12-258. Prohibition on the Use of Tobacco Products and Vapor Products on Municipal Property.

- 1) All Municipal Property shall be entirely Smoke free. The use of Tobacco Products and Vapor Products, in any form, by any person while in or on Municipal Property, is prohibited.
- 2) The prohibition on the use of Tobacco Products and Vapor Products described herein shall not apply to public streets, rights-of-way, and sidewalks.
- 3) Nothing herein prohibits any person or entity from prohibiting the use of Tobacco Products or Vapor Products in an area that is under the control of that person or entity and in which smoking, and the use of Tobacco Products, or Vapor Products, are prohibited by law.
- 4) No person or entity shall knowingly permit the use of Tobacco Products or Vapor Products in an area that is under control of that person or entity and in which smoking, and the use of Tobacco Products or Vapor Products, is prohibited by law.
- 5) The use of a Tobacco Product or Vapor Product in violation of this subsection 12-258 is a nuisance.



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- 6) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this subsection 12-258 regarding the use of Tobacco Products or Vapor Products shall constitute a violation of this subsection 12-258.

State law reference: O.S. Title 21, §1247 (C)

Sec. 12-259. Posting.

- 1) For restrictions on the use of Tobacco Products and Vapor Products in Indoor Areas, the City shall post a sign or decal, at least four inches by two inches in size, at each entrance stating that the use of Tobacco Products and Vapor Products are prohibited, or that the area is a tobacco-free and vapor-free environment.
- 2) For restrictions on the use of Tobacco Products and Vapor Products in Outdoor Areas, the City shall post weather-resistant signs, at least fifteen inches by fifteen inches in size, with lettering of at least one inch, stating that the use of Tobacco Products and Vapor Products is prohibited, or that the area is a tobacco-free and vapor-free environment.
- 3) The City Manager, or his/her designee, shall be responsible for the posting of signs on Municipal Property, both indoor and outdoor. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of subsection 12-258.

Sec. 12-260. Violation and Penalty.

Any person who violates Section 12-258 of the Code is guilty of a misdemeanor, shall be punished by a citation and a fine not of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00).

Sec. 12-261. Enforcement.

Any police officer or code enforcement officer employed by the City is authorized to issue a citation when said officer personally observes a violation of subsection 12-258. Nothing herein shall prevent the City Council of the Village or the City Attorney from taking such other lawful action as is necessary to prevent or remedy a violation of subsection 12-258, including, but not limited to, through administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.



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Section 2. Repealer Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 3. Statutory Construction and Severability. It is the intent of the City Council of the City of the Village to supplement applicable state and federal law and not to duplicate or contradict such law. The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this ordinance.


Section 4. Emergency. WHEREAS, it being necessary for the preservation of the peace, health, safety, and public good of The City of The Village and the inhabitants thereof, an emergency is hereby declared to exist, and by reason whereof, this ordinance shall take full force from and after its passage, as provided by law.

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF THE VILLAGE, OKLAHOMA, this 6th day of February, 2017, after compliance with the notice requirements of the Open Meeting Law (25 O.S. § 301, *et seq.*).



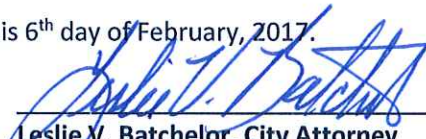
HUTCH HIBBARD, MAYOR

ATTEST:



Bruce K. Stone, City Clerk

APPROVED AS TO FORM AND LEGALITY this 6th day of February, 2017.



Leslie V. Batchelor, City Attorney