

ORDINANCE NO. _____

Ordinance to Create Subsections 7.032(1)(f)-(j), (3)(b)-(c), (4)(f), (5)(b) and (11) of the West Allis Revised Municipal Code Relating to Smoking Prohibition in Certain Areas.

By Alderpersons Reinke and Vitale

The Common Council of the City of West Allis do ordain as follows:

PART I. Subsections 7.032(1)(f)-(j), (3)(b)-(c), (4)(f), (5)(b), and (11) of the Revised Municipal Code of the City of West Allis are hereby created to read as follows:

7.032 SMOKING PROHIBITION IN CERTAIN AREAS.

(1) Findings. The Common Council of the City of West Allis finds that:

* * *

(f) The purported health benefits from electronic smoking devices have not been scientifically proven, and use of these devices has not been proven safe, either for their users or for bystanders. More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vapor inhalation. Clinical studies about the safety and efficacy of electronic smoking devices have not been submitted to the FDA for the more than 400 brands of electronic smoking devices that are on the market, and consumers have no knowledge of whether electronic smoking devices are safe; what types of concentration of potentially harmful chemicals the products contain; and what dose of nicotine the products deliver. The World Health Organization has strongly advised consumers against the use of electronic smoking devices until they are “deemed safe and effective and of acceptable quality by a competent national regulatory body.” The World Medical Association has determined that electronic smoking devices “are not comparable to scientifically-proven methods of smoking cessation” and that “neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established.” A study has shown that heavy exposure to electronic smoking device vapor damages DNA in cell cultures and causes genetic instability that may lead to cancer.

(g) Research indicates electronic smoking devices may lead youth to try other tobacco products. In addition, research indicates that youth who use electronic smoking devices are more likely to use tobacco products, including cigarettes, than those youth who do not use electronic smoking devices.

(h) Electronic smoking devices are currently unregulated and have been proven to emit nicotine, ultra-fine particles, volatile organic compounds and other toxins. Inhalation of nicotine is proven to be dangerous to everyone, especially children and pregnant women. Exposure to ultrafine particles may exacerbate respiratory illnesses, such as asthma and may constrict arteries which could trigger a heart attack. The volatile organic compounds, such as formaldehyde and benzene, found in electronic smoking device aerosols, as well as conventional cigarette smoke, are proven carcinogens.

(i) That a Harvard University health study found that high levels of diacetyl in 39 of 51 unique flavors of chemicals used in electronic smoking devices. Diacetyl is associated with bronchiolitis obliterans and other severe respiratory diseases among workers who have inhaled heated vapors containing diacetyl.

(j) That existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances including: carcinogens such as formaldehyde, acetaldehyde, lead, nickel, and chromium; PM 2.5, acrolein, tin, toluene, and aluminum which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and premature death from heart attacks and stroke; inconsistent labeling of nicotine levels in electronic smoking device products; and in one instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans.

* * *

(3) Definitions. Except as set forth below, the definitions of subsection 101.123(1) of the Wisconsin Statutes are hereby adopted. In this section:

* * *

(b) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. It includes any such device whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen or any other product name or descriptor.

(c) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or in any form or the use of any oral smoking device.

* * *

(4) Prohibition Against Smoking. No person may smoke in any of the following:

* * *

(f) Within 100 feet of any playground, equipment, or recreational area owned by the City or the West Allis/West Milwaukee School District specifically designed to be used by children that has play equipment installed. Such prohibition shall not apply to a person located on private property.

(5) Exceptions. The prohibition against smoking shall not apply to any of the following:

(a) Those places or areas set forth in Subsection 101.123(3) of the Wisconsin Statutes.

(b) For the purpose of sampling electronic cigarette liquids in an electronic smoking device only, premises that are validly licensed under Section 9.36 of the Code and prohibit minors from entering or remaining on the premises.

* * *

(11) No person shall use an electronic smoking device on school grounds.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED: _____, 2016

City Clerk

APPROVED: _____, 2016

Mayor

ATTO-Create SubSec 7.032(1)(f)-(j) (3)(b)-(c) (11) SmokeProhibAreas Update July 5