

**ORDINANCE NO. \_\_\_\_\_**

**Synopsis:** Adoption of this ordinance would prohibit use of electronic cigarettes in areas where smoking is prohibited by the Smoke Free Washington ordinance.

**AN ORDINANCE AMENDING CHAPTER 134 OF THE  
CODE OF ORDINANCES OF THE CITY OF WASHINGTON,  
TAZEWELL COUNTY, ILLINOIS, ENTITLED “SMOKE FREE WASHINGTON”**

**WHEREAS**, the City of Washington is a home rule government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

**WHEREAS**, pursuant to its home rule power, the City of Washington may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the use of electronic cigarettes indoors can negatively affect enjoyment of public and other spaces by those who do not use the devices; and

**WHEREAS**, in January, 2018, the National Academies of Sciences, Engineering, and Medicine reported that there is substantial evidence that e-cigarette use by youth and young adults increases their risk of ever using conventional cigarettes and there is conclusive evidence that e-cigarette use increases airborne concentrations of particulate matter and nicotine in indoor environments compared with background levels; and

**WHEREAS**, it is in the best interest of the health, safety and welfare of the citizens and residents of the City that the City adopt an ordinance restricting electronic cigarette use similarly to smoking, to protect the health, safety and welfare of its citizens,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS**, an Illinois home rule municipality, as follows:

**Section 1.** The foregoing recitals are hereby adopted and incorporated into and made a part of this Ordinance as if fully set forth herein.

**Section 2.** That subsections 134.04(A) Definitions, 134.04(B) Smoking Prohibited, 134.04(D) Designation of Other Non-Smoking Areas, 134.04(E) Exemption, and 134.04(F) Violations are hereby amended to read as follows:

- (A) Definitions. 410 ILCS 82/10, as may be amended from time to time, is hereby adopted as §134.04(A) of the City of Washington Code of Ordinances and is incorporated as if fully set forth herein. In addition,

"Retail electronic cigarette store" means a retail establishment that derives more than 80% of its gross revenue from the sale or repair of electronic cigarettes, electronic cigarette products, and alternative nicotine products or a combination of these products and the sale of tobacco or tobacco products. "Retail electronic cigarette store store" includes an enclosed workplace that manufactures, imports, or distributes the above products, when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing product for the eventual retail sale of that product, tobacco, electronic cigarettes, electronic cigarette products, or alternative nicotine products are heated, burned, or smoked, or a lighted tobacco product is tested, provided that the involved business entity: (1) maintains a specially designated area or areas within the workplace for the purpose of the heating, burning, smoking, or lighting activities, and does not create a facility that permits smoking throughout; (2) satisfies the 80% requirement related to gross sales; and (3) delivers tobacco products, electronic cigarettes, electronic cigarette products, or alternative nicotine products to consumers, retail establishments, or other wholesale establishments as part of its business. "Retail electronic cigarette store" does not include a department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

"Electronic Cigarette" is a battery-powered device which simulates tobacco or other smoking. It uses a heating device or other mechanism that vaporizes a liquid solution. An "Electronic Cigarette" includes devices known as personal vaporizer or electronic nicotine delivery system.

"Electronic Cigarette Product" is a product designed or intended for use with an electronic cigarette, such as atomizers, cartomizers, batteries, bottles, or vaporizing liquid (e-juice).

(B) Smoking and Use of Electronic Cigarettes Prohibited.

(1) Smoking in public places, place of employment, and governmental vehicles prohibited. No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased or operated by the State or a political subdivision of the state.

(2) Entrances, Exits, Windows and Ventilation Intakes. 410 ILCS 82/70, as may be amended from time to time is hereby adopted as §134.04(B)(2) of the City of Washington Code of Ordinances and is incorporated as if fully set forth herein.

(3) In every location where smoking is prohibited by paragraphs (1) or

(2) of this subsection (B), or in any location designated in subsection (D), below, no person shall use any electronic cigarette.

- (C) Posting of Signs. 410 ILCS 82/20, as may be amended from time to time, is hereby adopted as §134.04(C) of the City of Washington Code of Ordinances and is incorporated as if fully set forth herein.
- (D) Designation of Other Non-Smoking Areas. 410 ILCS 82/30, as may be amended from time to time, is hereby adopted as §134.04(D) of the City of Washington Code of Ordinances and is incorporated as if fully set forth herein. In any place where an employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate an area where smoking is also prohibited, such person may prohibit use of electronic cigarettes provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting use of electronic cigarettes or, where compliant “no smoking” signs are posted, verbally or otherwise communicate to an occupant that the use of electronic cigarettes is prohibited in that place. For the purposes of this subsection (D), “signs prohibiting use of electronic cigarettes” means signs that are clearly and conspicuously posted in conjunction with compliant “no smoking” signs and which prohibition is written in letters contrasting to the background and no less than one-half inch in height.
- (E) Exemption. 410 ILCS 82/35, as may be amended from time to time, is hereby adopted as §134.04(E) of the City of Washington Code of Ordinances and is incorporated as if fully set forth herein. The use of electronic cigarettes is allowed in retail electronic cigarette stores.
- (F) Violations.
- (1) A person, corporation, partnership, association, or other entity who violates §134.04(B) of this Ordinance shall be fined pursuant to this Section (F). Each day that a violation occurs is a separate violation.
- (2) A person who violates ~~smokes in an area where smoking is Prohibited under~~ §134.04(B) or §134.04(D) shall be fined an amount not less than \$100 and nor more than \$250.
- (3) A person who owns, operates, or otherwise controls a public place or place of employment that violates §134.04(B)(1), or §134.04(B)(2) shall be fined (i) not less than \$250 for the first violation during any twelve month period of time, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$2,500 for each additional violation within one year after the first violation.
- (4) All violations of §134.04 may be enforced by issuance of a Notice

of Violation for the amount enumerated in this Section for a violation thereof, or may be enforced by issuance of a Notice to Appear. If the Notice of Violation is issued to a person who ~~smokes in an area where smoking is prohibited under~~ violates §134.04(B) or §134.04(D), the fine shall be \$100 for a first offense within twelve (12) months, \$150 for a second offense within one year after the first violations, and \$250 for each additional violation within one year after the first violation.

**Section 3.** That all ordinances, or parts thereof, in conflict herewith are hereby expressly repealed. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

**Section 4.** That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

AYES

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NAYS

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk