

**CITY OF PARK RIDGE
COOK COUNTY, ILLINOIS**

ORDINANCE 2017-36

AN ORDINANCE REGULATING ELECTRONIC SMOKING DEVICES

WHEREAS, the City of Park Ridge is an Illinois home rule municipal corporation operating under the authority of the Constitution and laws of the State of Illinois; and

WHEREAS, on March 6, 2006, in exercise of its home rule power, the City enacted Ordinance 2006-19 whereby it regulates smoking in places of employment and public places; and

WHEREAS, on July 23, 2007, the Smoke Free Illinois Act was enacted to further regulate smoking in places of employment and public places; and

WHEREAS, Section 65 of the Smoke Free Illinois Act, 40 ILCS 82/65, expresses that municipalities may regulate smoking in public places more strictly than otherwise provided by the Act; and

WHEREAS, electronic smoking devices, commonly known as “e-cigarettes,” “e-cigars,” “e-cigarillos,” “e-pipes,” “hookah pens”, “e-pens”, or “vape pens” etc., are battery operated devices designed to look like and to be used in the same manner as conventional tobacco products; and

WHEREAS, electronic smoking devices employ the use of a cartridge, generally containing up to 20 mg of nicotine, to deliver vaporized nicotine to users; and

WHEREAS, some cartridges used by electronic smoking devices can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine; and

WHEREAS, some cartridges used by electronic smoking devices can be filled or re-filled with liquid solutions containing controlled substances, creating the potential for inhalation and exposure to controlled substances; and

WHEREAS, the U.S. Food and Drug Administration (FDA) conducted laboratory analysis of electronic smoking device cartridges and found the following:

- Diethylene glycol, an ingredient used in antifreeze and toxic to humans, was found in one cartridge;
- Certain tobacco-specific nitrosamines, which are human carcinogens, were detected in half of the samples tested;
- Tobacco-specific impurities suspected of being harmful to humans—*anabasine*, *myosmine*, and *β-nicotyrine*—were detected in a majority of the samples tested;
- All but one tested cartridge labeled as containing no nicotine did in fact contain low levels of nicotine;
- Three identically labeled cartridges emitted markedly different amounts of nicotine with each puff. Nicotine levels per 100 mL puff ranged dramatically from 26.8 to 43.2 mcg nicotine; and
- One high-nicotine cartridge delivered twice as much nicotine to users as was delivered by a nicotine inhalation product approved by FDA for use as a smoking cessation aid which was used as a control; and

WHEREAS, clinical studies about the safety and efficacy of electronic smoking devices for their intended use have not been submitted to the FDA, and for this reason, consumers currently have no way of knowing:

- Whether electronic smoking devices are safe for their intended use;
- What types or concentrations of potentially harmful chemicals the products contain; and
- What dose of nicotine the products deliver; and

WHEREAS, the FDA has raised concerns that electronic smoking devices, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products; and

WHEREAS, the FDA has also raised concerns that electronic smoking devices are marketed and sold to young people and are readily accessible online and via mall kiosks; and

WHEREAS, the CDC and FDA have found that e-cigarette use rose among high school students from 1.5% to 16% from 2011 to 2015 (See Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students - United States, 2011 -2015. Morbidity and Mortality Weekly Report 2016; 65(14): 361-367); and

WHEREAS, the federal law restricting the sale of tobacco products to minors currently applies only to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco, but not electronic smoking devices; and

WHEREAS, electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products; and

WHEREAS, a study published in the Journal of Environmental and Public Health suggests that electronic smoking devices “may have the capacity to ‘re-normalize’ tobacco use in a demographic that has had significant denormalization of tobacco use previously”; and

WHEREAS, the use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Park Ridge, in exercise of its home rule powers, as follows:

Section 1. Recitals; Authority.

A. The foregoing recitals contain findings of fact and references to widely available publications that represent the grounds relied upon by the Corporate Authorities to enact this Ordinance and as such are incorporated by reference as though fully restated herein.

B. The regulations enacted by this Ordinance are an exercise of both the City’s home rule power and the authority bestowed on the City by the Smoke Free Illinois Act, both of which permit the City to adopt public health regulations which are more restrictive than State law. Therefore, the failure of one source of authority, generally or to any particular application of these regulations, shall not result in the invalidity or unenforceability of the regulations adopted by this Ordinance. It is the intent of the Corporate Authorities for this

Ordinance to be interpreted and applied liberally to most effectively accomplish the purposes heretofore described.

Section 2. Indoor Smoking Regulations. Article 5, Chapter 17 of the City of Park Ridge Municipal Code (the “City Code”), “Smoking,” is hereby amended by revising Section 5-17-1 as described below:

The City of Park Ridge adopts Sections 1 through 35 and Section 70 of the Smoke Free Illinois Act, 410 ILCS 82/1 et seq., and any future revisions or amendments thereto. Furthermore, for the purpose of this Chapter the term “smokes” or “smoking” shall be interpreted to include the use and operation of an electronic smoking device. An electronic smoking device is an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. “Electronic Smoking Device” 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, hookah pen, vape pen or any other product name or descriptor. An electronic smoking devices excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

Section 3. Retail Smoking Regulations. Article 12, Chapter 9 of the City Code, “Tobacco Products,” is hereby amended by revising Section 12-9-1 as described below:

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- A. *Tobacco Products* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, nicotine gels and dissolvable nicotine products or any electronic smoking device.
- B. *Vending Machine* means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.
- C. *Electronic Smoking Device* means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. “Electronic Smoking Device” 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, hookah pen, vape pens or any other product name or descriptor. An electronic smoking devices excludes any product approved by the United States Food and Drug Administration as a nontobacco

product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

Section 4. Juvenile Diversion Program. A new section providing for an educational diversion program in lieu of monetary fines for juveniles which violate Article 12, Chapter 9 shall added as a new Section 12-9-13 as set forth below:

12-9-13 – ALTERNATIVE PENALTIES; MINORS

If the offense is related to Sections 12-9-6 or 12-9-7 of this Chapter, the minor is a first-time offender and is enrolled as a full-time student at a public school district located in Park Ridge (or another equivalent private or parochial school), the court or administrative adjudication hearing officer may assign the offender to a diversion and education program that is approved by Maine Township High School District 207. If the violator agrees to attend such a program, the violator shall pay for the cost of the program and a fine of \$25.00 for a first offense.

Section 5. Penalties. The penalties prescribed in Sections 12-9-6(B) and 12-9-7(B) shall be increased from \$100 per violation to \$500 per violation.

Section 6. Drug Paraphernalia Regulations. Article 14, Chapter 16 of the City Code, “Control of Controlled Substances and Instruments Used for Inhaling or Ingestion of Controlled Substances,” is hereby amended by revising the definition for “Instrument” as described below:

Instrument: A device used, designed for use, or intended for use in ingesting, smoking, administering or preparing cannabis as heretofore defined in [Section 14-16-1](#) of this Chapter, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance.

Section 6. Severability. In the event any of the regulations hereby adopted, or any application thereof, is found to be invalid or unenforceable, notwithstanding Section 1 of this Ordinance, it is the intent of the Corporate Authorities for such provision or application to be severable from the remaining provisions and applications of such regulations, and such finding shall not diminish or avoid the effectiveness of the remaining provisions or applications.

Section 7. Effective Date. The regulations adopted by this Ordinance shall become effective upon adoption in the manner provided by law.

Section 8. Publication. The City Clerk is hereby authorized and directed to publish said Ordinance in pamphlet form according to law.

Adopted by the City Council of the City of Park Ridge, Illinois this 17th day of July, 2017

VOTE:

AYES: Ald. Shubert, Melidosian, Mazzuca, Joyce, Moran, Wilkening, Milissis and Moran

NAYS: None

ABSENT: None

Approved by me this 17th day of July, 2017.

Acting Mayor Marty Maloney

Attest:

Betty W. Henneman, City Clerk