

## ORDINANCE NO. 2484

AN ORDINANCE TO AMEND SECTION 18-5 OF THE MUNICIPAL CODE PERTAINING TO  
ELECTRONIC CIGARETTES

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**WHEREAS**, the Common Council of the City of Cudahy recognizes the addictive properties of nicotine and further recognizes that the purported benefits of electronic smoking devices (commonly known as e-cigarettes, e-pipes and several other trade and brand names) have not been scientifically proven, and the use of these devices has not been proven safe, either by users or for bystanders, and;

**WHEREAS**, research indicates that 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. Lastly, research indicates electronic smoking devices do not assist with smoking cessation, and;

**WHEREAS**, the Common Council finds that it is in the best interest of the health, safety and welfare of the citizens of the City of Cudahy to amend portions Section 18-5 of the Municipal Code to prohibit the use of electronic smoking devices in places where smoking is prohibited and to prohibit the possession of electronic smoking devices by minors and on school grounds.

**NOW THEREFORE**, at a regular of the Common Council of the City of Cudahy, held on the \_\_\_\_ day of \_\_\_\_\_, 2019, a quorum of the members of the Common Council being present and a majority voting in favor thereof, the Common Council does hereby ordain as follows:

SECTION 1. Section 18-5 of the Municipal Code of Ordinances is hereby amended as follows (additions are double underlined):

Sec. 18-5. - Smoking prohibited.

- (a) *Purpose.* The purposes of this section are to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment and to guarantee the right of nonsmokers to breathe smoke-free air while indoors.
- (b) *Definition of enclosed indoor area.* In addition to the definition of the term "enclosed place" set forth in Wis. Stats. § 101.123, an "enclosed indoor area," for the purposes of this section, shall include all space between a floor and a ceiling that is bounded by walls, doors, 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 screen with an 18 by 16 mesh count is not a wall.
- (c) *Adoption of state law.* The provisions of Wis. Stats. § 101.123 relating to the prohibition of smoking in various enclosed indoor areas is hereby adopted and made part of this Code by reference. As prescribed by state statutes, a warning notice shall be issued to the "person in charge" for the first violation.
- (d) *Electronic Cigarettes.*

(1) "Electronic smoking device" means any product containing or delivering nicotine or any other similar substance, whether natural or synthetic intended for human consumption through inhalation of vapor or aerosol from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. The term electronic smoking device includes any component part of a product whether or not sold separately.

(2) Prohibitions against smoking under this section shall include use of an electronic smoking device.

(3) No person shall sell or offer for sale any electronic smoking device or nicotine product to any person under 18 years of age.

(4) No person under the age of 18 years of age shall possess any electronic smoking device or nicotine product.

(5) No person shall possess an electronic smoking device on school grounds or in school buildings.

(d) (e) *Penalty.* A violation of this section of the Code relating to the prohibition of smoking in various enclosed places shall be subject to a forfeiture of not less than \$100.00 nor more than \$250.00 for each violation, except that the forfeiture for a "person in charge" shall be \$100.00 for all violations occurring on a single day.

SECTION 3. The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 4. This ordinance shall take effect on and after its passage and publication.

Passed and Adopted by the Common Council of the City of Cudahy \_\_\_\_\_, 2019.

\_\_\_\_\_  
Thomas Pavlic, Mayor

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Dennis Broderick, City Clerk

Date published: \_\_\_\_\_.