

AN ORDINANCE ADDING PROVISIONS PROHIBITING SMOKING ON CITY PROPERTIES AND SPECIFICALLY IN PUBLIC PARKS TO THE CODES OF THE CITY OF SALEM, MISSOURI.

WHEREAS, IN ORDER TO MAINTAIN A HEALTHY ENVIRONMENT FOR INDIVIDUALS PARTICIPATING IN ACTIVITIES IN CITY OWNED FACILITIES; THEREFORE,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SALEM, MISSOURI AS FOLLOWS:

**Section 1.**

**Chapter 240 Clean Air Ordinance** of the Salem City Code shall be added as follows:

**240.010 Findings and Intent**

The City of Salem Board of Aldermen does hereby find that:

The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.<sup>1</sup> According to the 2010 U.S. Surgeon General's Report, How Tobacco Smoke Causes Disease, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.<sup>2</sup> According to the 2014 U.S. Surgeon General's Report, The Health Consequences of Smoking—50 Years of Progress, secondhand smoke exposure causes stroke in nonsmokers. The report also found that since the 1964 Surgeon General's Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke.<sup>3</sup>

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen.<sup>4</sup>

Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death.<sup>5</sup>

There is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke.<sup>6</sup>



In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smokefree laws reduce heart attacks.<sup>7</sup>

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.<sup>8</sup> The Americans With Disabilities Act, which requires that disabled persons have access to public places, deems impaired respiratory function to be a disability.<sup>9</sup>

During periods of active smoking, peak and average outdoor tobacco smoke (OTS) levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations.<sup>10</sup> Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smokefree outdoor area.<sup>11</sup>

Electronic smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid that typically contains nicotine, heated through an electronic ignition system. ESD emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.<sup>12</sup> The January 2018 National Academies of Sciences, Engineering, and Medicine publication states that there is conclusive evidence that in addition to nicotine, most ESDs contain and emit numerous potentially toxic substances and increase airborne concentrations of particulate matter and nicotine in indoor environments. Studies show that people exposed to ESD aerosol absorb nicotine (measured as cotinine) at levels comparable to passive smokers. Many of the elements identified in the aerosol are known to cause respiratory distress and disease. ESD exposure damages lung tissues. Human lung cells that are exposed to ESD aerosol and flavorings — especially cinnamon — show increased oxidative stress and inflammatory responses.<sup>13</sup> Their use in public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO), the National Institute for Occupational Safety and Health (NIOSH), and the American Industrial Hygiene Association (AIHA) recommend that ESDs not be used in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws.<sup>14</sup>

Secondhand smoke from combusted marijuana contains fine particulate matter that can be breathed deeply into the lungs, which can cause lung irritation and asthma attacks, thus making respiratory infections more likely. Exposure to fine particulate matter can exacerbate health problems especially for people with respiratory conditions like asthma, bronchitis, or COPD.<sup>15, 16</sup> Secondhand smoke from marijuana also has many of the same chemicals as smoke from tobacco, including those linked to lung cancer.<sup>17, 18</sup> More research is needed, but the current body of science shows that both tobacco and marijuana smoke may have similar harmful cardiovascular effects.<sup>19, 20</sup> Thus, in the interest of public health, the use of combustible or aerosolized marijuana should be prohibited wherever tobacco smoking is prohibited.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.<sup>21</sup>

The smoking of tobacco, hookahs, or marijuana/cannabis and the use of ESDs are forms of air pollution and constitute both a danger to health and a material public nuisance.

Accordingly, the City of Salem Board of Aldermen finds and declares that the purposes of this ordinance are:

- (1) to protect the public health and welfare by prohibiting smoking in public places; and
- (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

**Section 2.**

These changes become effective immediately and are subject to modification at any time by the Board of Aldermen.


All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, repealed.

**Section 3.**

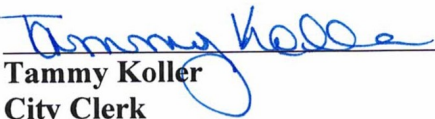
This Ordinance shall be in full force and effect from and after February 27, 2024.

PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF SALEM, MISSOURI, AND APPROVED BY THE MAYOR, THIS 27<sup>th</sup> DAY OF FEBRUARY 2024.

APPROVED:

  
\_\_\_\_\_  
Greg Parker  
Mayor

ATTEST:

  
\_\_\_\_\_  
Tammy Koller  
City Clerk

APPROVAL AS TO FORM:

  
\_\_\_\_\_  
James Weber  
City Attorney