

ORDINANCE NO. 1038

AN ORDINANCE AMENDING THE CITY CODE OF EL PASO TO PROHIBIT THE POSSESSION OF TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC CIGARETTES BY PERSONS UNDER 21 YEARS OF AGE ON CITY PROPERTY

WHEREAS, the City Council of El Paso previously passed an ordinance prohibiting the possession of tobacco and alternative nicotine products by persons under the age of 21; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-60-2), the City has the authority to define, prevent, and abate nuisances; and

WHEREAS, the City Council finds that the possession of tobacco and electronic cigarettes inevitably leads to the use of tobacco and electronic cigarettes, and such use poses serious health risks to young people, and that electronic cigarettes are disproportionately marketed toward and harmful to young people; and

WHEREAS, the City Council further finds that there has been an increase in the possession and use of electronic cigarettes by young people in public places and that such possession and use constitute a public nuisance; and

WHEREAS, the City hereby finds that it is in the best interests of the City to amend the City Code to prohibit the possession of tobacco products and electronic cigarettes by persons under twenty-one (21) years of age as a nuisance pursuant to the City's authority, and to further revise definitions of electronic cigarettes in harmony with State law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EL PASO, WOODFORD COUNTY, ILLINOIS, THAT:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Part II, Chapter 275 of the City Code of the City of El Paso is hereby amended to read as follows:

§ 275-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ELECTRONIC CIGARETTE

- (1) any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation:
- (2) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or
- (3) any solution or substance, whether or not it contains nicotine intended for use in the device.

"Electronic cigarette" includes any electronic nicotine delivery system or 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, or under any other

product name or descriptor. The term "electronic cigarette" does not include cigarettes and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose; or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

SELF-SERVICE DISPLAY

The open display or storage of tobacco products in a manner that is physically accessible in any way to a member of the general public without a direct person-to-person transfer involving a retail tobacco dealer or his agent. A vending machine is a form of self-service display.

SMOKE or SMOKING

Either:

- A. The carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment; or
- B. The use of any electronic cigarette.

TOBACCO PRODUCT

Any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from tobacco, which product is intended to enable human consumption of the tobacco or nicotine, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. "Tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. For purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose, or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

§ 275-2 Unlawful possession.

It shall be unlawful for any person under the age of 21 years of age to possess cigarettes, cigars, chewing tobacco, snuff, or any other tobacco product, or electronic cigarette within City limits.

§ 275-3 Self-service displays.

No person shall engage in the business of self-service display as defined in § 275-1.

§ 275-4 Smoking prohibited in certain areas.

A. In accordance with the State of Illinois, the following places are prohibited from use of smoking or electronic cigarettes: bars and restaurants, shopping malls, recreational facilities, including sports arenas and stadiums, swimming pools, ice and roller rinks, arcades and bowling alleys, concert halls, auditoriums, convention facilities, government buildings and

vehicles, public transportation facilities, coin laundries, meeting rooms, private clubs, public restrooms, and lobbies, reception areas, hallways and other common-use areas in public buildings, apartment buildings and condominium buildings.

B. In addition to the prohibition of smoking within the above areas, smoking is also prohibited within 15 feet of the entrance of these establishments.

§ 275-5 Exemptions.

Smoking or electronic cigarettes shall be permitted within private residences (except residences that are used as day-care facilities or any other business to which the public is invited), some hotel and motel sleeping rooms, retail tobacco stores and vape stops.

§ 275-6 Authority to designate smoke-free areas.

Any property owner or manager of buildings and other spaces not listed within this chapter may declare his/her buildings and other spaces to be smoke-free and such owners and managers are encouraged to do so.

§ 275-7 Penalty.

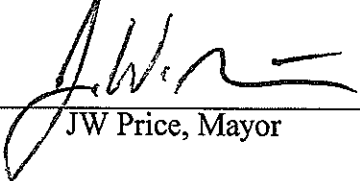
Any person who shall violate any of the provisions of this chapter shall be subject to a fine of \$100 or shall perform 10 hours of some reasonable public service work, such as but not limited to the picking up of litter in public parks or along public highways or the maintenance of public facilities. This penalty shall be in place notwithstanding the general penalty provisions of § 1-25 of the El Paso Municipal Code.

Section 3. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 4. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of El Paso, this 1st day of February, 2021.



JW Price, Mayor

ATTEST:



David W. Fever, City Clerk