

ORDINANCE NO. 2018-10

AN ORDINANCE TO REGULATE SMOKING, USE OF SMOKELESS TOBACCO, AND E-CIGARETTES IN CERTAIN VENUES OWNED OR OPERATED BY THE CITY OF OZARK, ARKANSAS.

WHEREAS, the Surgeon General of the United States has determined cigarette smoking has been causally linked to lung cancer, arteriosclerosis and coronary heart disease, chronic obstructive pulmonary disease and other conditions that constitute a wide array of serious health consequences; and,

WHEREAS, the Surgeon General of the United States has determined that smokeless tobacco use causes oral cancer, nicotine addiction and other health problems; and,

WHEREAS, unregulated high-tech 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 nicotine created by heat through an electronic ignition system.

WHEREAS, after testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detected levels of known carcinogens and toxic chemicals. The FDA’s testing also suggested that “quality control processes used to manufacture those products are inconsistent or nonexistent.”

WHEREAS, e-cigarettes produce a vapor of undetermined and potentially harmless substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in work places and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

WHEREAS, 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; and,

WHEREAS, the City Council of the City of Ozark, Arkansas, believing it to be in the public interest, seeks to provide a legal means for official intervention to discourage the use of cigarettes, cigars, pipes, smokeless tobacco products, and e-cigarettes in certain venues owned by the City of Ozark.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OZARK, ARKANSAS, TO-WIT:

SECTION I. Definitions.

“E-Cigarette” means any device that can be used to deliver aerosolized or vaporized nicotine or other inhalant to the person inhaling from the device, including but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, juul, or e-hookah.

“Enclosed Area” means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind. Enclosed area shall also mean an area that is enclosed by a fence which is at least four (4) feet tall.

“Smokeless Tobacco Product” means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including but not limited to a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco product” also includes any electronic smoking devices (or e-cigarettes).

Smoking/Vaping” means inhaling, exhaling, burning, or carrying any tobacco products, including but not limited to cigarettes, cigars, pipes, or any electronic, vapor, or heated device or lighted combustible plant material.

SECTION II. All enclosed areas that are owned, leased, or operated by the City of Ozark, including buildings and vehicles, shall be subject to the provisions of this Ordinance.

SECTION III. Use of smokeless tobacco products, use of e-cigarettes, vaping and smoking or carrying lighted cigarettes, pipes, and cigars shall be prohibited in all enclosed areas owned, leased or maintained by the City of Ozark, including but not limited to, the following places:

- A. City Sports Fields
- B. All City Parks
- C. Ozark Community Center
- D. City Offices
- E. City Buildings
- F. City Vehicles

SECTION IV. Use of smokeless tobacco products, the use of e-cigarettes, and smoking or carrying lighted cigarettes, pipes and cigars shall be prohibited within a reasonable distance of 25 feet outside city-owned entrances, operable windows, and ventilation systems of enclosed areas where smoking or the use of e-cigarettes is prohibited and in all outdoor arenas and stadiums owned by the City of Ozark. Smoking, smokeless

tobacco use, and the use of e-cigarettes shall also be prohibited in, and within 25 feet of bleachers and grandstands for use by spectators at sporting and other public events.

SECTION V. Any person violating any of the provisions of this ordinance shall be fined not less than \$50.00 nor more than \$100.00. For a second conviction within a five (5) year period of time, fine and costs will not be less than \$100.00 nor more than \$500.00.

SECTION VI. Any ordinances of the City of Ozark which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION VII. If part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of the Ordinance.

SECTION VIII. This Ordinance shall be enforced by the Ozark Police Department. Any citizen may inform any person perceived to be violating this Ordinance of the provision of this Ordinance.

SECTION IX. This Ordinance shall take effect upon final adoption and publication in accordance with the law.

SECTION X. Because of the serious health concerns involved with these activities the City does find and declare that an emergency exists and this Ordinance, being necessary for the preservation of the public peace, health and safety shall take effect from and after its passage.

PASSED AND APPROVED THIS _____ DAY OF _____, 2018.

T R MCNUTT
MAYOR, CITY OF OZARK

Attest:

City Clerk/Recorder