

O-2020-02

**AN ORDNANCE
AMENDING AND EXTENDING
THE PROHIBITION OF TOBACCO USE
TO INCLUDE E-CIGARETTES
IN AND ON PUBLIC PROPERTY IN OAK RIDGE**

WHEREAS:

1. The Oak Ridge Town Council, in order to protect the health, safety and welfare of the citizens of Oak Ridge and all persons using the public facilities thereof, and pursuant to the authority vested in local governments under general law including Chapter 130A of the North Carolina General Statutes, in 2010 enacted Section 38-61 of the Code of Ordinances, and amended same in 2012, to restrict tobacco use on the public property of Oak Ridge; and,
2. Since such enactments, a version of tobacco use known as electronic cigarettes or e-cigarettes has been marketed in North Carolina and locally; and,
3. On November 7, 2019, the Guilford County Board of Health adopted its "Regulation of Smoking, E-cigarettes and Tobacco Products in Local Government Buildings and Vehicles," based on the following finding of fact:
 - a. That tobacco use is the number one preventable cause of premature death in North Carolina and the nation; and,
 - b. That secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and,
 - c. That the 2014 Surgeon General's Health Consequences of Smoking Report documents that while the decline of smoking consequent to tobacco control is surely one of public health's greatest successes, if smoking persists at the current rate among young adults in this country, 5.6 million of today's Americans younger than 18 years of age are projected to die prematurely from a smoking-related illness; and,
 - d. That research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity, and some hazard exists beyond 30 feet; and,
 - e. That in 2016, the U.S. Surgeon General's Report on E-cigarette Use Among Youth and Young Adults stated that emitted e-cigarette aerosol is not just water vapor, but contains nicotine and can contain additional toxins, making it less safe than clean air. Furthermore, e-cigarette use has the potential to involuntarily expose children and adolescents, pregnant women, and non-users to aerosolized nicotine and, if the

products are altered, to other psychoactive substances. Therefore, clean air—free of both smoke and e-cigarette aerosol—remains the standard to protect health; and,

- f. That the use of e-cigarettes in places where smoking traditional tobacco products is prohibited could lead to difficulties in enforcing smoke-free policies; and,
 - g. That in 2009, the United States Food and Drug Administration (FDA) announced that an analysis of e-cigarette samples indicated that the e-cigarettes contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze; and it has been found that the emitted aerosol is not just water vapor, but contains nicotine and can contain additional toxins, making it less safe than clean air to those nearby.
4. The Town Council of Oak Ridge shares the Guilford County Board of Health's commitment to protecting the health and environment of individuals, children, and employees in the local government buildings, vehicles, and grounds by eliminating exposure to secondhand smoke, and adopts the Board of Health's findings as its own;
 5. Amendment of Section 61 of the Code of Ordinances to regulate e-cigarette use on public property in Oak Ridge, consistently with the regulatory provisions adopted by the Board of Health, will enhance the protection of the public health, safety, and welfare in Oak Ridge.

NOW, THEREFORE, BE IT ORDAINED:

That the pertinent provisions of Chapter 38-61 of the Code of Ordinances are hereby amended and rewritten, by striking the existing language and inserting the new language as follows:

1. Sec. 38-61(b) *Definitions* is amended and rewritten as to the following definitions:

E-cigarette. Any electronic oral device that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, vapes, vaporizers, vape pens, hookah pens, or under any other product name or descriptor.

~~*Tobacco products.* Any product that contains tobacco and is intended for human consumption.~~ Any product containing or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, or ingested by any other means, including but not limited to cigarettes; e-cigarettes; cigars; little cigars; snuff; and chewing tobacco. A tobacco product excludes any product that has been 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 such an approved purpose.

2. Sec. 38-61 (c) *Tobacco use prohibited.* is amended to rewrite the introductory prohibitory language as follows:

Tobacco use, including e-cigarettes, is prohibited in or on all of the following:[.]

Adopted and effective, this 7th day of May, 2020.

Ann K. Schneider
Mayor

Sandra B. Smith, CMC, NCCMC
Town Clerk