

Model Outdoor Recreational Areas Tobacco-Free Policy

Section 1: Purpose

- 1.1. The [City/County] is committed to providing safe and healthy environments.
- 1.2. Tobacco use is the leading cause of preventable death and disease in the U.S.
- 1.3. Exposure to secondhand smoke has negative health impacts and the U.S. Surgeon General has determined there is no risk-free level of exposure to secondhand smoke.
- 1.4. Electronic smoking devices, more commonly referred to as electronic cigarettes or e-cigarettes, typically contain nicotine, which is highly addictive, and their use (1) often closely resembles and purposefully mimics the act of smoking, (2) produces an aerosol or vapor of undetermined and potentially harmful substances, (3) is increasing among both adults and youth, (4) is especially concerning among youth because of the negative impacts of nicotine on the developing adolescent brain, (5) threatens to re-normalize smoking, potentially jeopardizing tobacco control efforts of the past and present, and (6) creates confusion and leads to difficulties enforcing smoking prohibitions.
- 1.5. Cigarettes consumed in outdoor public places are often discarded on the ground as an environmental blight, diminishing the beauty of recreational areas, requiring additional maintenance expenses to clean up, and posing a fire risk as well as risk to human and animal health through potential ingestion and contamination of water sources.
- 1.6. The tobacco industry advertises at and sponsors recreational events to foster a connection between tobacco use and recreation.
- 1.7. The [City/County] believes parents, coaches, leaders, and officials involved in recreation are role models for youth and can have a positive effect on the lifestyle choices they make.
- 1.8. The [City/County] believes tobacco use is detrimental to the public's health and has determined that prohibiting the use of tobacco products and electronic smoking devices in all [City/County] recreational areas serves to protect the public's health, safety and welfare.

Section 2: Definitions

- 2.1. **All times** means 24 hours a day, seven days a week.
- 2.2. **Electronic smoking device** means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance intended for human consumption to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah.
- 2.3. **Recreational area** means all facilities, parks, trails, open space, and other property owned, leased, rented, contracted, used, or controlled by [City/County] for parks and recreational

purposes, including streets and sidewalks located within a park or recreational area. The term includes, but is not limited to, restrooms, spectator and concession areas, playgrounds, athletic fields, beaches, picnic areas, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, roller and ice-skating rinks, skateboard parks, amusement parks, zoos, and aquatic areas.

2.4. Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco, nicotine, or plant product intended for inhalation, including marijuana, whether natural or synthetic. “Smoking” also includes the use of an electronic smoking device or hookah.

2.5. Tobacco or 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 means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

2.6. Tobacco use means the act of smoking, the use of smokeless tobacco, or the use of any other tobacco product in any form.

Section 3: Policy

3.1. Tobacco use is prohibited at all times in or on all recreational areas.

3.2. It is not a violation of this policy to use tobacco in or on recreational areas as part of a Native American spiritual or cultural ceremony. Approval from [City/County] administration must be requested and received prior to the ceremony.

Section 4: Enforcement

4.1. Signage will be posted at strategic locations to inform the community and recreational area users about the policy.

4.2 [City/County] staff and volunteers will be notified about this policy through the employee manual.

4.3 The success of this policy depends on the consideration and cooperation of all. Enforcement of the policy is a shared responsibility of [City/County] staff and recreational area users. [City/County] staff will communicate the policy to event organizers. [City/County] staff will also make periodic observations of recreational areas to monitor for compliance.

4.4 Any individual found violating this policy will be reminded and asked to comply before being subject to ejection from the recreational area. [City/County] staff found violating this policy may be subject to disciplinary action.

4.5 An owner, manager, operator, or employee of an area regulated by this Article shall direct a person who is smoking or using tobacco in violation of this Article to extinguish the product being smoked or stop using the tobacco product. If the person does not stop smoking or using the tobacco product, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

Section 5: Violations and Penalties

5.1 A person who smokes or uses tobacco in an area where smoking and using tobacco is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).

5.2 A person who owns, manages, operates, or otherwise controls an area regulated under this Article who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

5.3 In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls an area regulated under this Article may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

5.4 Violation of this Article is hereby declared to be a public nuisance, which may be abated by the _____ [Department of Health or City Manager or County Administrator] by restraining order, preliminary and permanent injunction, or other means provided for by law, and the _____ [City or County] may take action to recover the costs of the nuisance abatement.

5.5 Each day on which a violation of this Article occurs shall be considered a separate and distinct violation

Section 6: Severability

If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision or application. Each invalid provision or application of this ordinance is severable.

Section 7: Effective Date

This policy is effective on [effective date].
Appropriate [City/County] Official Date