

**ORDINANCE 4960**

**RESTRICTIONS ON SMOKING AND  
USE OF E-CIGARETTES, VAPING**

WHEREAS, the State of Indiana has enacted a ban on smoking under statute IC 7.1-5-12 Prohibition on Smoking for the health and safety of the residents of the State of Indiana;

WHEREAS, Indiana Code 7.1-5-12-13(a) permits a city to adopt a smoking / nicotine ban that is more restrictive than the State's prohibition.

WHEREAS, this Ordinance prohibits the use of Electronic cigarettes (e-cigarettes, e-cigs, Electronic water pipes), vaporizers, and vapor products in the same facilities that smoking tobacco and tobacco products are prohibited by I.C. 7.1-5-12.

WHEREAS, this Ordinance prohibits smoking, as defined by I.C. 7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products in Goshen City's public parks and within a greater distance of a public entrance to a public place or a place of employment.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that:

**Section 1. Prohibitions**

1.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products are prohibited in the following locations:

- (A) An enclosed area of a structure in which the public is invited or permitted (public place) including, but not limited to:
1. aquariums, galleries, libraries, and museums;
  2. banks, laundromats, professional offices, and retail establishments;
  3. Bingo facilities;
  4. Child care and adult day care facilities;
  5. convention facilities;
  6. public and private educational facilities;
  7. elevators;
  8. gaming facilities;
  9. health care facilities;

10. hotels and motels;
  11. common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
  12. polling places;
  13. public transportation vehicles and related facilities;
  14. restaurants;
  15. shopping malls;
  16. indoor, enclosed, or outdoor sports arenas;
  17. motion picture and live performance theatres;
  18. bars, except as provided in Section 2.01: and
  19. all restrooms, lobbies, reception areas, hallways, and other common-use areas of such structures and facilities.
- (B) A place of employment.
- (C) A City Park property and within City owned buildings and structures.
- (D) Outdoor dining areas within the public right-of-way; outdoor seating areas of restaurants, bars, and businesses, except benches and those seating areas restricted to individuals over the age of 18; and areas that are within eight feet (8') of where smoking is prohibited.
- (E) The area within eight (8) feet of all outdoor public transportation stations, platforms, and shelters.

1.02 An employer shall inform each of the employer's employees and prospective employees of this ordinance's prohibition as it applies to the place of employment.

## **Section 2. Exceptions**

- 2.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products may be allowed in the following locations:
- (A) Clubs, Fraternal Clubs and Labor Organizations.
  - (B) A premises owned or leased as a private residence, unless such is used as a licensed childcare, adult day care, or health care facility.
  - (C) Tobacco specialty bars, tobacco retail stores, and vape shops.

- (D) None of the areas set forth as an Exception shall be exempt from the provisions of this Ordinance if smoke from any area enters, either directly or indirectly, through entrances, windows, ventilation systems, or other means, an area where smoking is otherwise prohibited by this Ordinance.
- (E) An establishment owned or leased by a business that was in operation and permitted smoking and/or vaping on January 1, 2018, and has continuously permitted smoking and/or vaping, provided the business meets the following requirements:
  - 1. The business prohibits entry by patrons who are less than twenty-one (21) years of age.
  - 2. The business owner or operator holds a beer, liquor or wine retailer's permit.

2.02 The owner, operator, manager, or official in charge of an establishment or premises in which smoking or vaping is allowed shall post conspicuous signs in the establishment that read "WARNING: Smoking Or Vaping Is Allowed In This Establishment," or other similar language.

### **Section 3. Enforcement/ Penalties**

3.01 Any person found violating this ordinance shall be subject to a fine not exceeding the following:

- (A) One Hundred Dollars (\$100) for the first violation of the ordinance; and
- (B) Five Hundred Dollars (\$500) for the second or subsequent violation of the ordinance.

3.02 A person who desires to register a complaint under this Ordinance may register it with the City of Goshen.

### **Section 4. Definitions**

4.01 **Electronic cigarette** means a device that is capable of providing an inhalable dose of nicotine or any other substance intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device. The term includes the components and cartridges.

4.02 **Vapor product** means a powered vaporizer that converts e-liquid to a vapor intended for inhalation through an Electronic cigarette or an Electronic water pipe.

4.03 **E-liquid** means a substance that:

- (A) may or may not contain nicotine; and
- (B) is intended to be vaporized and inhaled using a vapor product.

- 4.04 **Vaping** means the process of inhalation or exhalation of the Electronic cigarette, e-cigs, Electronic water pipe, and vaporizers.
- 4.05 **E-cigs or E-cigarettes** are other terms used to refer to Electronic cigarettes.
- 4.06 **Electronic water pipe** means a device that is capable of providing an inhalable dose of nicotine or any other substance through water intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device.
- 4.07 **Vaporizer** means a device like an Electronic cigarette that is used to inhale the e-liquid.
- 4.08 **Clubs** means an association or corporation that:
- (A) Organized under the authority of law;
  - (B) Been in active, continuous existence for at least three (3) years;
  - (C) Maintained a membership roll for a three (3) year period;
  - (D) Shall have a paid-up membership of more than fifty (50) members;
  - (E) Shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;
  - (F) Shall not be operated for financial gain;
  - (G) The property and advantages belong to its members; and
  - (H) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.
- 4.09 **Fraternal Clubs; Labor Organizations** means an association or corporation whose membership is comprised of or forms:
- (A) A lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature, or a body whose membership is comprised of persons who have served in the armed forces of the United States;
  - (B) Has been in continual existence on a national scale for more than five (5) years;
  - (C) Fraternal clubs and labor organizations need not meet the requirements of the definition of "Clubs," but are considered clubs for all other purposes.
- 4.10 **Bars and Taverns** means an establishment that meets the following conditions:
- (A) Holds one or more of the following licenses:
    1. a beer retailer's permit under IC 7.1-3-4;
    2. a liquor retailer's permit under IC 7.1-3-9; or

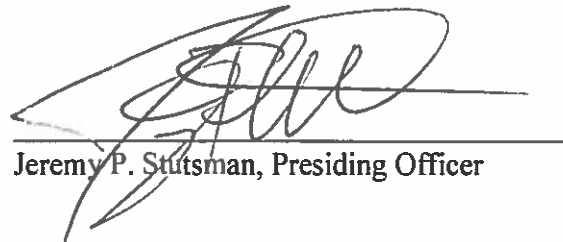
3. a wine retailer's permit under IC 7.1-3-14;

(B) Does not employ an individual who is less than eighteen (18) years of age;

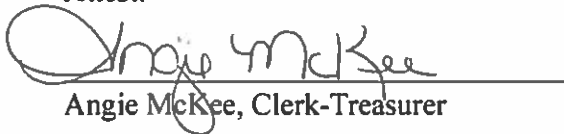
(C) Does not allow individuals less than twenty-one (21) years of age to enter.

This ordinance shall be effective upon its passage and publication as required by law, except that this ordinance shall not be effective as to Bars and Taverns until January 1, 2019.

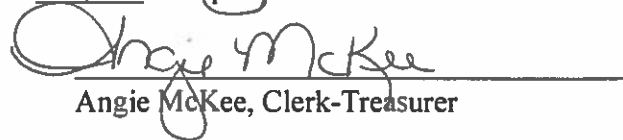
This ordinance is passed by the Common Council of the City of Goshen, Indiana on the 4<sup>th</sup> day of September, 2018.

  
Jeremy P. Stutsman, Presiding Officer

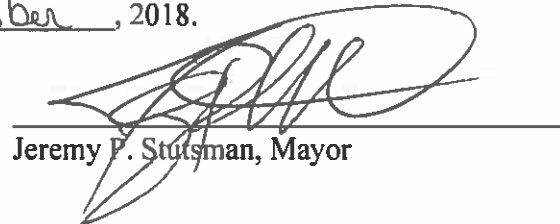
Attest:

  
Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council, is presented by me to the Mayor on the 7<sup>th</sup> day of September, 2018 at 1:42 a.m./p.m.

  
Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council and presented to me is approved by me and adopted on the 7<sup>th</sup> day of September, 2018.

  
Jeremy P. Stutsman, Mayor