

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA AMENDING CHAPTERS 12 AND 13 OF THE MUNICIPAL CODE OF THE CITY OF BARTLESVILLE, OKLAHOMA, TO PROVIDE CONSISTENCY WITH OKLAHOMA STATE LAWS AND REGULATIONS, COMMONLY CITED AS THE SMOKING IN PUBLIC PLACES AND INDOOR WORKPLACES ACT; PROHIBITING SMOKING IN CERTAIN AREAS OF ANY CITY PARK OR RECREATIONAL FACILITY; AND PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, smoking is a proven health threat via direct and second hand smoke to both children and adults and sets an unhealthy example for children;

WHEREAS, the administrative rules adopted by the Oklahoma State Department of Health regulating medical marijuana as authorized by Title 63, Section 420A through 426, inclusive, place restrictions on smokable medical marijuana and medical marijuana products;

WHEREAS, State restrictions for tobacco under the "Smoking in Public Places and Indoor Workplaces Act" also apply to smokable medical marijuana products; and

WHEREAS, City Council of Bartlesville finds and declares that the purposes of this ordinance are (1) to comply with applicable State law; (2) to protect the public health and welfare by prohibiting smoking in enclosed places and specified outdoor areas within the City; and (3) to guarantee the right of nonsmokers to breathe smoke-free air, and recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA:

§ 1. Code Amendment. That Chapter 12, Offenses, Article VII, Offenses Against Property, Sections 12-120 of the Code of the City of Bartlesville shall be amended to read as follows:

Sec. 12-120. Smoking Prohibitions

(1) Adoption of State Statutes and Rules. The City of Bartlesville hereby adopts by reference the following:

- a) All regulations now contained or hereafter contained in Title 63 of the Oklahoma Statutes, Section 1-1521 et. seq., commonly referred to as the

“Smoking in Public Places and Indoor Workplaces Act” and all administrative rules adopted by the Oklahoma State Department of Health to implement said act.

- b) All regulations now contained or hereafter contained in Title 63 of the Oklahoma Statutes, Section 420A et. seq., concerning medical marijuana and all administrative rules adopted by the Oklahoma State Department of Health to implement said act.

(2) Definitions:

- a) “Smoking Device” shall mean a lighted cigar, cigarette, pipe, or other lighted or heated device, pipe, or product, including electronic or battery operated devices, intended for inhalation of a product in any manner or in any form, including but not limited to vaping, inhaling, exhaling or burning, whether natural or synthetic.
- b) “Smoke” means the gases and particles released into the air by combustion, electrical ignition or vaporization, including from an Electronic Smoking Device, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the resulting gases, particles or vapor combustion products, such as, for example, tobacco smoke or marijuana smoke, except when the combusting material contains no tobacco, marijuana, or similar substance, and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense.
- c) “Smoking” means engaging in an act that generates Smoke, such as for example, but not limited to: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, an operating Electronic Smoking Device, a lighted cigarette of any kind or a lighted smoke inhalation device of any kind that generates Smoke, or the act of lighting or igniting a pipe, a hookah pipe, a cigar, a cigarette or Smoke inhalation device of any kind that generates Smoke.
- d) “Tobacco Product” means:
 - 1. Any substance containing or derived from tobacco leaf, including but not limited to cigarettes, Electronic Smoking Devices, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, blunts, clove cigarettes, or any other preparation of tobacco; and
 - 2. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body by inhalation; but does not include any cessation product specifically approved by the U. S. Food and Drug Administration for use in treating nicotine or tobacco dependence.
- e) “Medical Marijuana Product” means any substance containing or derived from cannabinoids, including concentrates, that have been extracted from

plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.

(3) Restriction on Smoking of Tobacco or Tobacco-Derived Products and Marijuana or Marijuana-Derived Products for Medicinal Purpose. The smoking of any tobacco or tobacco-derived product or any medical marijuana or marijuana products by any legally authorized person shall be prohibited in the following locations:

- a) In any location prohibited or restricted by any State law or rule;
- b) In any enclosed, indoor facility or within twenty-five (25) feet of the entrance or exit of any such facility which is now or which may hereafter be owned or under the jurisdiction and control of the City of Bartlesville, whether located within or outside the corporate boundaries of the City; and
- c) In or within the following areas located within city parks, parkways, trails, recreation areas, and open space lands which are now or which may hereafter be owned or under the jurisdiction and control of the City of Bartlesville, whether located within or outside the corporate boundaries of the City, and as further set forth in Article 13:
 1. In or within fifty (50) feet of any playground or play court;
 2. In or within fifty (50) feet of the fenced confines of any outdoor recreational facility;
 3. In or within fifty (50) feet of all bleachers and stands used by spectators at public events; and
 4. On the travel or walking surface portion of the Pathfinder Parkway Trail System or within five (5) feet thereof, and in the associated trailheads.

(4) This section shall not prohibit smoking in a private, enclosed room or office occupied exclusively by one or more smokers, even if the room or enclosed office may be visited by a nonsmoker.

(5) The City Manager is authorized to promulgate and enforce reasonable rules and regulations not inconsistent with this Section.

§ 2. Code Amendment. That Chapter 13, Parks and Recreation, Article I, In General, Section 13-6 Prohibited Acts, be amended by adding the following paragraph (12):

(12) Smoking.

- a. To smoke any tobacco or tobacco-derived product or any medical marijuana or marijuana products by any legally authorized person in any of the following locations:

- i. In or within fifty (50) feet of any playground or play court;
 - ii. In or within fifty (50) feet of the fenced confines of any swimming pool or any outdoor recreational facility;
 - iii. In or within fifty (50) feet of all bleachers and stands used by spectators at public events;
 - iv. On the travel or walking surface portion of the Pathfinder Parkway Trail System or within five (5) feet thereof, and in the associated trailheads.
- b. For the purposes of this ordinance, the definitions contained in Section 12-120 of this Municipal Code along with the following definitions shall apply:
- i) A playground shall be defined as any portion of public park land that is designed and equipped with play structures such as swings, climbing structures, splash pads, water features or the like, primarily, but not exclusively, set aside for children's play. This definition shall include a skateboard park.
 - ii) A play field or play court shall be defined as any portion of public park land that is designed, equipped, and prepared for playing of a game or match, such as soccer, football, baseball, softball, tennis, volleyball, or the like, either fenced or unfenced, that is used for recreational or competitive play.
- c. The regulations contained in Section 12-120 of this Municipal Code shall also apply to this Section.

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville, Oklahoma this 4th day of September, 2018.

VOTE:

MR. DORSEY
MR. GENTGES
MR. CURD
VICE MAYOR KANE
MAYOR COPELAND

<u>aye</u>	no
<u>aye</u>	no
<u>aye</u>	no
<u>aye</u>	no
<u>aye</u>	no


Dale Copeland, Mayor

ATTEST:


City Clerk

