


CITY MANAGER'S OFFICE MEMORANDUM
#48-2019

DATE: September 23, 2019

TO: Honorable Mayor Antonio B. Esquibel and City Council Members

FROM: Heather Geyer, City Manager 

SUBJECT: CB-1935 – Prohibiting Smoking and the Use of Electronic Smoking Devices in Public Parks and Recreational Areas

PURPOSE

City Council is considering CB-1935, an ordinance prohibiting smoking and the use of electronic smoking devices in public parks and recreational areas on second reading.

BACKGROUND

At the June 17, 2019 Study Session, City Council provided staff with direction to move forward on the following options:

1. Consider implementing a licensing process for tobacco retailers that includes compliance checks and consider raising the purchasing age for tobacco products to 21 years of age (this item will be brought forward at a future date in the fall of 2019).
2. Consider prohibiting smoking in outdoor places.

Based on the above City Council direction, the City Attorney has drafted an ordinance prohibiting smoking and the use of electronic smoking devices in public parks and recreational areas. Tobacco-Free Jeffco Alliance is a regional coalition working to reduce the impact of tobacco on communities. Information on other community efforts to implement smoke-free policies is included in Attachment 1.

At the September 9, 2019 regular meeting, Council approved CB-1935 on first reading and set a public hearing on the proposed ordinance for September 23, 2019.

STAFF RECOMMENDATION

Staff recommends approval of CB-1935 on second reading.

BUDGET/TIME IMPLICATIONS

There are no budget implications. New signs will be created in-house.

STAFF REFERENCE

For additional information, please contact Heather Geyer, City Manager at hgeyer@northglenn.org or 303.450.8706.

ATTACHMENTS

1. Tobacco-Free Jeffco Alliance information

CB-1935 – Prohibiting Smoking and the Use of Electronic Smoking Devices in Public Parks and Recreational Areas

The U.S. Surgeon General states there is no safe level of exposure to second-hand smoke.

Comprehensive Smoke-Free Policies

PROBLEM: Secondhand smoke exposure is a leading cause of preventable death.

- Since 1964, approximately 2.5 million non-smokers have died from exposure to secondhand smoke in the U.S.¹
- Young people who see smoking in public places are more likely to consider smoking to be socially acceptable and 'normal.'² This includes e-cigarette use and vaporizing.
- Exposure to secondhand smoke outdoors can be as dangerous as exposure in smoky indoor areas.³ There is no safe level of exposure to secondhand smoke; even brief exposure can be harmful to health.⁴
- Cigarette litter is very dangerous to children and the environment. Ingestion of just one cigarette butt, which can easily be found on a playground, could be toxic and ingestion of an entire cigarette is potentially lethal to children.⁵
- It is estimated that in 2010, there were 90,800 fires caused by smoking resulting in \$663 million worth of property damage.⁶
- According to the CDC and evidence from peer-reviewed studies examining taxable sales revenue and employment levels shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry.⁷

Comprehensive smoke-free laws, including outdoor public places are proven effective to support quitting, prevent kids from starting and reduce exposure to secondhand smoke.

—The Centers for Disease Control and Prevention, Institute of Medicine, Institutes of Health, & the World Health Organization

PROVEN APPROACHES: Comprehensive smoke-free laws are proven to improve health and protect lives.

Smoke-free workplaces & public places such as parks, recreation, bars, patios and transit waiting areas can:

- ✓ Reduce exposure to secondhand smoke and tobacco use by youth and adults
- ✓ Increase the number of tobacco users who quit
- ✓ Reduce tobacco-related morbidity and mortality

WHAT ACTIONS HAVE COMMUNITIES TAKEN?

- ⇒ **Arvada, CO, 2005/2008/2015:** prohibits smoking and vaping in indoor workplaces and public places, all outdoor parks, trails, athletic fields, golf courses, pools, outdoor customer seating areas (including bar/restaurant patios), and within 25 feet of public entrances.
- ⇒ **Ft. Collins, CO, 2013:** prohibits smoking on and within 20 feet of outdoor dining areas and bar patios and makes outdoor public transit waiting areas including shelters and benches smoke-free.⁸
- ⇒ **Edgewater, CO, 2014:** added vaporizing to smoke-free public places law covering outdoor customer service areas, parks and sporting events, and smoke-free workplaces for tobacco stores and small businesses.



For more information, call (303) 275-7555,
email tobaccofree@jeffco.us,
or visit our website at www.TobaccoFreeJeffco.com



1. U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 [accessed 2014 Apr 11].
2. Alesci, N. L., Blaine, T., & Forster, J. L. (2003). Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults. *Preventative Medicine*.
3. Neil E. Klepeis, Wayne R. Ott, Paul Switzer Real-Time Measurement of Outdoor Tobacco Smoke Particles *Journal of the Air & Waste Management Association* Vol. 57. 5. 2007
4. US Department of Health and Human Services. (2006). *The health consequences of involuntary exposure to tobacco smoke: a report of the Surgeon General*. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 709.
5. 2008 Annual Report of the American Association of Poison Control Centers' National Poison Data System, 2009.
6. The smoking–material fire problem. (2013). Retrieved April 21, 2014, from National Fire Protection Association: <http://www.nfpa.org/research/reports-and-statistics/fire-causes/smoking-materials>
7. Smoke–free policies do not hurt the hospitality industry. (2014, April 8). Retrieved April 2014, from Centers for disease control and prevention smoking & tobacco use: http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/protection/hospitality/index.htm#overview
8. Tobacco free Larimer County. (2014). Retrieved April 28, 2014, from Larimer County department of health and environment: <http://www.larimer.org/health/chs/tobacco/>

SPONSORED BY: MAYOR ESQUIBEL

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1935
Series of 2019

Series of 2019

A BILL FOR AN ORDINANCE AMENDING SECTIONS 9-14-3 AND 9-14-4 OF THE NORTHGLENN MUNICIPAL CODE PROHIBITING SMOKING AND THE USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PARKS AND RECREATIONAL AREAS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 9-14-3 of the Northglenn Municipal Code is hereby repealed and reenacted as follows:

Section 9-14-3. Definitions. As used in this Article, the following terms shall have the meanings indicated herein:

(1) "Auditorium" means the part of a public building where an audience gathers to attend a performance and includes any corridors, hallways, or lobbies adjacent thereto.

(2) "Bar" means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(3) "Cigar-tobacco bar" means a bar that generated at least five percent (5%) or more of its total annual gross income or fifty thousand dollars (\$50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines.

(4) "Employee"

(a) "Employee" means any person who:

(i) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(ii) Provides uncompensated work or services to a business or nonprofit entity.

(b) "Employee" includes every person described in paragraph (a) of this subsection (4), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(5) "Employer" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

(6) "Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted under Section 9-14-5. "Entryway" also includes the area of public or private property within a ~~fifteen (15)~~ TWENTY-FIVE (25) -foot radius outside of the doorway.

(7) "ELECTRONIC SMOKING DEVICES" MEANS ANY PORTABLE ELECTRONICALLY ACTIVATED DEVICE, WHICH IN OPERATION CAUSES THE USER TO EXHALE ANY SMOKE, VAPOR, OR OTHER SUBSTANCE RESULTING IN CHEMICALLY ALTERED HUMAN EXHALATION. "ELECTRONIC SMOKING DEVICE" INCLUDES ANY DEVICE MANUFACTURED, DISTRIBUTED, MARKETED, OR SOLD AS AN ELECTRONIC CIGARETTE, AN ELECTRIC CIGAR, AN ELECTRONIC CIGARILLO, ELECTRONIC PIPE, AND ELECTRONIC HOOKAH, OR UNDER ANY SIMILAR PRODUCT NAME OR DESCRIPTOR. "ELECTRONIC SMOKING DEVICE" DOES NOT INCLUDE ANY ASTHMA INHALER OR OTHER DEVICE THAT HAS BEEN SPECIFICALLY APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

~~(7)~~(8) "Environmental tobacco smoke," "ETS," or "secondhand smoke" means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as "sidestream smoke," and smoke exhaled by the smoker.

~~(8)~~(9) "Food service establishment" means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

~~(9)~~(10) "Indoor area" means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

~~(10)~~(11) "Place of employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

~~(11)~~(12) "Proprietor" means the owner, operator or person in charge of any place regulated by this article.

~~(12)~~(13) "Public building" means any building owned or operated by:

- (a) The state, including the legislative, executive, and judicial branches of state government;
- (b) The City of Northglenn or an instrumentality thereof; or
- (c) Any other separate corporate instrumentality or unit of state or local government.

~~(13)~~(14) "Public meeting" means any meeting open to the public pursuant to Section 24-6-401, C.R.S., or any other law of this state.

(15) "PUBLIC PARK PROPERTY" MEANS ANY REAL OUTDOOR PROPERTY OWNED OR CONTROLLED BY THE CITY OF NORTHGLENN, INCLUDING, WITHOUT LIMITATION, PARKS, TRAILS, OPEN SPACES, PLAYGROUNDS, AND OUTDOOR RECREATION FACILITIES, BUT EXCLUDING PUBLIC BUILDINGS, STREETS, SIDEWALKS, AND ALLEYS.

~~(14)~~(16) "Smoke-free work area" means an indoor area in a place of employment where smoking is prohibited.

~~(15)~~(17) "Smoking" means the burning of a lighted cigarette, cigar, pipe, ELECTRONIC SMOKING DEVICE, or any other matter or substance that contains tobacco or marijuana as defined by Section 9-9-2 of the Northglenn Municipal Code.

~~(16)~~(18) "Tobacco" means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

~~(17)~~(19) "Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

~~(18)~~(20) "Work Area" means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

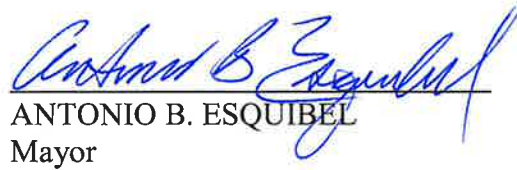
Section 2. Section 9-14-4 of the Northglenn Municipal Code is hereby amended with a new subsection (3).

Section 9-14-4. General Smoking Restrictions.

* * *

(3) IN ORDER TO REDUCE THE LEVELS OF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE, SMOKING SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE ON PUBLIC PARK PROPERTY.

INTRODUCED, READ AND ORDERED POSTED this 9th day of September, 2019.


ANTONIO B. ESQUIBEL
Mayor

ATTEST:



JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2019.

ANTONIO B. ESQUIBEL
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:



COREY Y. HOFFMANN
City Attorney