

ORDINANCE No. 04-25-19-01
**AN ORDINANCE AMENDING CHAPTER 4, "PUBLIC ORDER, SAFETY AND
HEALTH," OF THE CODE OF ORDINANCES OF JOHNSON COUNTY, IOWA,
ADDING AND INCORPORATING A SECTION ENTITLED SMOKEFREE
AIR ACT.**

WHEREAS, the State of Iowa has adopted Chapter 142D of the Iowa Code, known as the Iowa Smokefree Air Act, which regulates smoking in public places throughout the State of Iowa; and,

WHEREAS, the Johnson County Board of Supervisors has previously passed Resolution 06-26-14-02 prohibiting the use of cigarettes, tobacco products, alternative nicotine products, and vapor products on areas controlled by the Board of Supervisors at or within which smoking would be prohibited by the Smokefree Air Act; and

WHEREAS, on February 20, 2019, the Johnson County Board of Health approved a position statement regarding electronic cigarettes, including adoption by the Johnson County Board of Supervisors of an ordinance to include electronic cigarettes in areas where tobacco cigarette use is prohibited under the Iowa Smoke Free Air Act; and

WHEREAS, the County has the power to make changes to the statute to make the regulations more restrictive as long as said changes are not in conflict with the statute; and

WHEREAS, the Johnson County Board of Supervisors has determined it is necessary for the health and welfare of its citizens and visitors to the County to further regulate the use of e-cigarettes and the placement of smoking areas outside of public places.

NOW, THEREFORE, BE IT ORDAINED BY THE JOHNSON COUNTY BOARD OF SUPERVISORS, as follows:

SECTION I. Amendment. The Johnson County Code of Ordinances (2013) is hereby amended by adding Section 4:7 entitled "Smokefree Places" to Chapter 4, to read as follows:

4:7 Smokefree Places

Effective May 2, 2019

- 4:7.1 Purpose**
- 4:7.2 Adoption**
- 4:7.3 Additional Definitions**
- 4:7.4 Alternative Nicotine Products and Vapor Products**
- 4:7.5 Additional Protected Areas**
- 4:7.6 Enforcement and Penalties**
- 4:7.7 Jurisdiction**

4:7.1 Purpose.

The purpose of this ordinance is to protect and preserve the health and welfare of Johnson County residents and visitors by regulating the use of e-cigarettes and the protection of areas outside of public places from certain smoking-related activities.

4:7.2 Adoption.

There is hereby adopted by reference that certain state statute known as Chapter 142D of the Code of Iowa (2017), as may be amended from time to time and enlarged by this Section 4:7, as establishing those places within Johnson County where smoking is or may be prohibited. Smoking is prohibited and a person shall not smoke in any of the places lying in Johnson County, Iowa that are described in Iowa Code Section 142D.3 or that may be declared nonsmoking pursuant to Iowa Code Section 142D.5, subject to the exceptions in Iowa Code Section 142D.4.

4:7.3 Additional Definitions

For purposes of this Section:

1. All definitions set out in Section 142D.2, Code of Iowa are incorporated herein.
2. The following definitions are added to Section 142D.2 of the Smokefree Air Act:
 - a. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electrical, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution of other substance. "Vapor Product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. "Vapor Product" does not include any product regulated as a drug or device by the United States Food and Drug Administration, under Chapter V of the federal Food, Drug and Cosmetic Act.
 - b. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting or sniffing or by any other means. Alternative nicotine product does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V, of the federal Food, Drug and Cosmetic Act.

4:7.4 Alternative Nicotine Products and Vapor Products.

It shall be unlawful for any person to use any Alternative Nicotine Product or any Vapor Product in any place where cigarettes are prohibited to be used pursuant to Section 4:7.2 of this Ordinance.

4:7.5 Additional Protected Areas

It shall be unlawful for any person to smoke, or use any Alternative Nicotine Product or Vapor Product within twenty-five (25) feet of the entrance to any public places where smoking is not allowed under Section 4:7.2 of this Ordinance.

4:7.6 Penalties

In addition to the civil penalties provided for in Iowa Code Chapter 142D, violation of any provision of this Ordinance shall constitute a county infraction under Section 331.307 of the Iowa Code, punishable by a penalty of \$100.00 for a person's first violation thereof and \$200.00 for each repeat violation, enforceable by any officer authorized by Johnson County to enforce county codes or regulations. Alternatively, violation of this Section 4:7 can be charged by a peace office of the county or a city therein as a simple misdemeanor.

4:7.7 Jurisdiction

The provisions of this Ordinance shall apply throughout Johnson County, Iowa including within the corporate limits of all cities in Johnson County that have not enacted an ordinance addressing vapor products and/or alternative nicotine products. If a city within Johnson County enacts or has enacted such an ordinance, then this Ordinance shall have no effect within such city to the extent this Ordinance conflicts with the city ordinance. If a city within Johnson County enacts an ordinance stating that this Ordinance shall have no effect within the corporate limits of said city, then such a city ordinance shall be a complete defense for any violations of this Ordinance occurring within the corporate limits of said city for so long as the local city ordinance remains effective.

SECTION II. Conflicts. All ordinances or parts of ordinances not specifically provided for and in conflict with the provisions of this ordinance are hereby repealed.

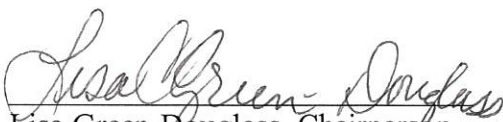
SECTION III. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.



SECTION IV. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not be adjudged invalid, illegal or unconstitutional.

SECTION VI. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceedings of the Board of Supervisors.

ATTEST:


Lisa Green-Douglass, Chairperson
Board of Supervisors



Travis Weipert, Auditor
Johnson County, Iowa

