

Title 5

HEALTH, SANITATION AND ENVIRONMENT

5-5-1: FINDINGS:

5-5-2: DEFINITIONS:

5-5-3: PROHIBITION OF PUBLIC SMOKING AND ELECTRONIC SMOKING DEVICE USE:

5-5-4: OTHER REQUIREMENTS AND PROHIBITIONS:

5-5-5: PENALTIES AND ENFORCEMENT:

5-5-6: RIGHT OF ACTION:

5-5-7: SEVERABILITY:

SECTION 1. FINDINGS:

WHEREAS, according to the U.S. Surgeon General, there is no safe level of exposure to secondhand smoke and¹ even brief exposure to secondhand smoke can be harmful to health² and;

WHEREAS, the Town of Akron has determined that it is an appropriate and proper exercise of its police powers pursuant to article 15, of title 31, C.R.S. to prevent public exposure to secondhand smoke from tobacco and Electronic Smoking Devices (e-cigarettes) in public places; and;

WHEREAS, studies show that adolescents who live in communities with strong smoke-free protections are less likely to smoke than adolescents who live in communities with weaker protections³; and

WHEREAS, the aerosol or vapor from Electronic Smoking Devices (e-cigarettes) is not harmless water vapor and not as safe as clean air⁴; and

WHEREAS, E-cigarettes and other Electronic Smoking Devices expose the public to harmful chemicals, make the enforcement of smoke-free laws a challenge and are very attractive to young people; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF AKRON, COLORADO, AS FOLLOWS:

The intent in enacting this ordinance is to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of Smoking and Electronic Smoking Device use in

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, GA: 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. Printed with corrections, January 2014. Available at: http://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm

² Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs — 2014*. 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. Available at: http://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf

³ Albers, A.B. et al. (2004). Relation between Local Restaurant Smoking Regulations and Attitudes towards the Prevalence and Social Acceptability of Smoking: A Study of Youth and Adults who eat Out Predominately at Restaurants in Their Town. *Tobacco Control*, 13(4), pp 347-55.

⁴ Center for Disease Control and Prevention, Office on Smoking and Health. (2016). *Electronic Nicotine Delivery Systems: Key Facts*. [Fact Sheet]. Retrieved from: <https://www.cdc.gov/tobacco/stateandcommunity/pdfs/ends-key-facts2015-508tagged.pdf>

municipal parks within the Town of Akron, especially around children, by protecting the public from exposure to secondhand Smoke.

SECTION 2. DEFINITIONS:

The following words and phrases, whenever used in this Article shall have the meanings defined in this Section unless the context clearly requires otherwise:

(a) AKRON MUNICIPAL PARK means any outdoor area owned and operated by the Town and open to the general public for recreational purposes or public events, regardless of any fee or age requirements. The term “Akron Municipal Park” specifically includes the following described parcels of real estate situate in the County of Washington, State of Colorado:

“Akron City Park”

Lots 1 through 8, the N1/2 of Lot 9, and Lots 17 and 18 all of Block 3 of the Original Recorded Plat of the Town of Akron.

More commonly known as 345 Main Ave., Akron, CO 80720; and

“Akron Municipal Pool”

That part of the Northwest Quarter of the Northwest Quarter (NW¹/₄NW¹/₄) of Section 9, Township 2 North, Range 52 West of the 6th P.M., Washington County, Colorado, lying North of Third Street (formerly known as Fillmore Street) of said Town of Akron, Colorado, if said street were extended East, and being that part lying East of a line drawn parallel with and 300 feet distant East of the East line of Date Street (formerly Golden Street) of the Town of Akron, Colorado.

More commonly known as 382 Elm Street, Akron, CO 80720; and

“State Park”

That parcel commencing at a point 80 feet West of the Northwest corner of Block One (1) of the First Addition to the Town of Akron (according the recorded plat thereof); thence running West in the continuation of the South line of Fulton Street (now known as First Street) to intersect the West line of the Northeast Quarter (NE¹/₄) of Section Eight (8), in Township Two (2) North, Range Fifty-two (52) West of the 6th P.M.; thence South along said West line of the Northeast Quarter (NE¹/₄) of Section Eight (8) to its intersection with the Westerly prolongation of the South line of said Block One (1); thence Easterly along said Westerly prolongation of the South line of Block One (1) to the West line of Genoa Street (now known as Custer Avenue); thence Northerly along said West line of Genoa Street to the point of commencement aforesaid.

More commonly known as 402 West 1st St. Akron, CO 80720.

(b) ELECTRONIC SMOKING DEVICE means any device that when activated emits a vapor, aerosol, or smoke or can be used to deliver nicotine or any other substance to the person inhaling from the device, including, but not limited to e-cigarettes, e-cigars, e-pipes, vape pens, e-hookahs, inhalant delivery systems or any other similar product by any other name or descriptor. An electronic smoking device includes any component, part or accessory of such device whether or not sold separately, regardless of nicotine content or any other substance intended to be vaporized or aerosolized for human inhalation during the use of the device.

(c) REASONABLE DISTANCE means a distance that ensures that people located within an area where smoking and Electronic Smoking Device use is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be a minimum of fifteen **(15)** feet in any direction.

(d) SMOKE means the emissions or release of gases, particles, vapors or aerosols into the air from burning, heating or activation of any device, including, but not limited to a cigarette, electronic smoking device, e-cigarette, vape pens, e-hookahs or any other product by any name or descriptor when the apparent or usual purpose of burning, heating or activation of the device is human tasting and inhalation.

(e) SMOKING means the act of burning, heating, activation or carrying of any device, including, but not limited to a cigarette, cigar, pipe, hookah, or Electronic Smoking Device, electronic cigarette, vape pen, e-hookah or similar device, by any other product name or descriptor, that results in the release of smoke, vapors or aerosols when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

(i) TOBACCO PRODUCT means:

(1) any product containing, made, or derived from tobacco or synthetic tobacco whether or not said product contains nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and

(2) Any Electronic Smoking Device; and

(3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory of Tobacco Product, whether or not sold separately.

SECTION 3. PROHIBITION OF PUBLIC SMOKING AND ELECTRONIC SMOKING DEVICE USE:

(a) **PROHIBITION OF SMOKING AND ELECTRONIC SMOKING DEVICE USE WITHIN AKRON MUNICIPAL PARKS.**

- (1) Smoking and electronic smoking device use is prohibited within all Akron Municipal Parks and within a Reasonable Distance from any Akron Municipal Park.

SECTION 4. OTHER REQUIREMENTS AND PROHIBITIONS:

- (a) No person shall dispose of Tobacco Products or Electronic Smoking Device(s) waste within the boundaries of Akron Municipal Park or within a Reasonable Distance from any Akron Municipal Park.

- (b) Signage required.

(1) In locations where Smoking and/or Electronic Smoking Device use is prohibited by this Article the Town shall post a clear and conspicuous “No Smoking” and Electronic Smoking Device use or “Smoke-free” and “Electronic Smoking Device-Free” sign with the Town contact phone number where complaints can be directed.

(2) For purposes of this section, the Town Manager or his/her designee shall be responsible for the posting of signs required hereunder.

(3) Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of Smoking and/or Electronic Smoking Device use in violation of any other provision of this Article.

(4) No Person or Employer shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another Person who seeks to attain compliance with this Article.

(5) Each instance of Smoking and/or Electronic Smoking Device use in violation of this Article shall constitute a separate violation.

SECTION 5. PENALTIES AND ENFORCEMENT.

- (a) The remedies provided by this Article are cumulative and in addition to any other remedies available at law or in equity.

- (b) Each incident of Smoking and/or Electronic Smoking Device use in violation of this

Article is an infraction subject to a \$100.00 fine or otherwise punishable pursuant to Section 1-12-9 of the Town Code. Other violations of this Article may, at the discretion of the Town Attorney, be prosecuted as infractions or misdemeanors when the interests of justice so require. Enforcement of this chapter shall be the responsibility of the persons or entities with authority to enforce the Town Code for the Town of Akron. In addition, any peace officer or code enforcement official also may enforce this Chapter.

(c) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Article shall also constitute a violation of this Article.

SECTION 6. RIGHT OF ACTION:

Except as otherwise provided, enforcement of this Article is at the sole discretion of the Town. Nothing in this Article shall create a right of action in any person against the Town or its agents to compel public enforcement of this Article against private parties.

SECTION 7. SEVERABILITY:

It is the intent of the Board of Trustees of the Town of Akron to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases hereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Mayor Pro Tem

[S E A L]

ATTEST:

DENCIA RAISH, CMC
Town Clerk/Administrator

First Reading: February 4, 2019
Second Reading: March 4, 2019
Adopted this 4th day of March, 2019