

CITY OF LOGAN, UTAH
ORDINANCE NO. 14-84

AN ORDINANCE AMENDING SECTION 9.12.175: SMOKING PROHIBITED IN CITY PARKS, RECREATIONAL AREAS, AND CEMETERIES, AND NEAR MASS GATHERINGS

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety and preserve the health, promote the prosperity, improve the peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, the City Council has determined that the following ordinance is in the City's best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

9.12.175: SMOKING PROHIBITED IN CITY PARKS, RECREATIONAL AREAS, AND CEMETERIES, AND NEAR MASS GATHERINGS:

A. Definitions:

CITY PARK: Means and includes city owned parks and recreational areas, including, city owned spectator and concession areas, playgrounds, public squares, cemeteries, athletic fields, zoos and walking and biking trails, excluding city owned golf courses.

E-CIGARETTE: Means and includes any electronic oral device that provides a vapor of nicotine or other substance and which simulates smoking through its use or through inhalation of the vapor through the device; and includes an oral device that is composed of a heating element, battery, or electronic circuit and marketed, manufactured, distributed, or sold as an e-cigarette, e-cigar, e-pipe, or any other product name or descriptor, if the function of the product meets the definition of an electronic oral device.

MASS GATHERING: An outdoor assembly of fifty (50) or more people on city owned property that reasonably can be expected to continue for at least one hour.

SMOKE OR SMOKING: Means and includes possession, carrying, or holding a lighted pipe, cigar, e-cigarette, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, emitting, or exhaling of smoke of a pipe, cigar, or cigarette of any kind, or of any other lighted smoking equipment.

B. Prohibitions: Smoking is hereby prohibited:

1. In city parks,

2. Within twenty five feet (25') of bus stops,

3. Within fifty feet (50') of mass gatherings.

A violation of this section is an infraction punishable by a fine not to exceed twenty five dollars (\$25.00) but not by imprisonment. Police officers shall have the discretion to issue a "warning" if they deem it is in the best interests of the city for the first offense.

C. Exceptions: The restrictions of this section are subject to any applicable state or federal exemptions.

D. Posting Of Signs: "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every city park.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS _____ DAY OF DECEMBER 2014, BY THE FOLLOWING VOTE:

AYES:

NAYS:

ABSENT:

/s/ Karl B. Ward, Chair

ATTEST:

/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this _____ day of December, 2014.

/s/ Karl B. Ward, Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this _____ day of December, 2014.

/s/ H. Craig Peterson, Mayor



MEMO

To: Karl Ward, Council Chair; City Council; Mayor Petersen

From: Russ Akina

Date: November 12, 2014

Subject: Ordinance Amendment Proposal – Section 9.12.175 Proposal to Prohibit Electronic Cigarettes in City Parks, Recreational Areas, and Cemeteries, and Near Mass Gatherings

The City of Logan Parks and Recreation Department has for many years worked closely with the Bear River Health Department in raising awareness about the hazards associated with smoking and the use of tobacco products. In 2004, the Logan Municipal Council passed an ordinance prohibiting smoking in city parks, recreational areas, cemeteries, and near mass gatherings.

With the introduction of electronic oral devices that provide a vapor of nicotine or other substance that simulates smoking, the Bear River Health Department recommends that the City of Logan amend its ordinance (Section 9.12.175) to include the prohibition of electronic oral devices as described in the attached ordinance amendment.

The Parks and Recreation Department desires to present this proposal to the Municipal Council as a workshop item on the November 18 Council agenda. In addition to myself, Emily Jewkes, Health Educator from the Bear River Health Department will be in attendance to answer questions regarding the proposal. Information from the Bear River Health Department about e-cigarettes is enclosed.

January 2014

Utah Public Health Departments Policy Statement Regarding Electronic Cigarettes

An Alarming Trend

In the past 15 years, Utah has seen significant declines in cigarette smoking among youth and adults. As smoking rates have started to decrease, a variety of new tobacco and nicotine products have appeared on the market. Over the last several years there has been a particularly dramatic growth in the marketing and sale of electronic cigarettes, or "e-cigarettes". An e-cigarette is a battery powered device that atomizes a nicotine containing solution the consumer inhales similar to a conventional cigarette.

Between 2011 and 2013, the percentage of Utah high school age students who use e-cigarettes tripled. Currently, 5.9% of 8th, 10th, and 12th graders in Utah use e-cigarettes while only 3.8% smoke cigarettes. E-cigarettes are the new preferred nicotine delivery device for youth in our state. The data also show that 31.7% of students who reported ever using e-cigarettes say they have never tried conventional cigarettes. This raises concerns that e-cigarettes could serve as a gateway drug for conventional cigarettes.

Utah Department of Health Position

At the present time, no one can predict the long term consequences for individuals and society of e-cigarette use. Appropriate regulations would help to minimize the potential harms while working to promote any potential benefits in a safe and measured manner. We encourage the US Food & Drug Administration (FDA) to start exercising their regulatory power. Until federal regulation of these products is improved and more is understood about the long term health effects of e-cigarette use, UDOH supports appropriate actions protecting youth from initiation and limiting exposure.

Public Health Concerns

While supporting effective regulation to protect public health, the Utah public health system has not taken a position either in favor of or opposition to e-cigarettes. Under the right circumstances, it may be possible that e-cigarettes could be helpful in reducing the number of people who smoke cigarettes and die from tobacco-related disease. However, e-cigarettes also pose several potential risks to public health.

Marketing that attracts children: The marketing of e-cigarettes in magazines and on television, where cigarette ads have been banned since 1970, could undermine decades of efforts to de-glamorize smoking among youth. E-cigarettes may be particularly appealing to youth due to their high-tech design and wide array of available flavors, including historical staples of fruit and candy.

Lack of control over what is in e-cigarettes: There is currently no regulation of e-cigarette ingredients or manufacturing. As a result, these products contain widely varying levels of nicotine. While nicotine alone does not cause cancer, it is a highly addictive drug that has been shown to accelerate existing cancer growth and negatively impact the cardiovascular system. Analyses of some e-cigarettes have also found that they contain toxic chemicals.

January 2014

Inadequate information about the use and health risks of e-cigarettes: There is an urgent need for additional research on who is using e-cigarettes, their ingredients and what health risks they pose. Regulators should require manufacturers to disclose their own data on the use, contents and risks of these products. We need to investigate if e-cigarettes help people quit or lead to dual use by cigarette smokers by providing access to nicotine in places where smoking is prohibited.

Unsubstantiated health claims mislead consumers: Some manufacturers have made unsubstantiated claims that e-cigarettes can help smokers quit or are a safe alternative to traditional cigarettes. None of these claims have been reviewed or approved by the FDA or any other public health authority.

Effective regulation can guard against these risks and prevent e-cigarettes from increasing the number of people addicted to nicotine, convincing smokers not to quit or re-glamorizing the act of smoking.

Next Steps

The mission of the Utah Public Health Departments is to protect the public's health through preventing avoidable illness and promoting healthy lifestyles. Based on current data and research, we cannot endorse the use of electronic cigarettes as a safe alternative to smoking, or as an effective cessation tool. Due to the highly addictive nature of nicotine and the lack of knowledge of the long term effects of e-cigarette use, it is important that steps are taken to curb current trends and protect our youth.

Until more research is available the **Utah Public Health Departments recommend establishing retail licensing for those that sell e-cigarettes** as a critical policy measure. Requiring a license to sell e-cigarettes would allow the public health community to track where these products are being sold and better enforce current laws regarding youth access and zoning. A license would also allow local health authorities to collect civil penalties for violations of the law.

E-Cigarette Public Health Concerns

E-CIGARETTE MARKETING ATTRACTS CHILDREN

- ? With a total lack of restriction, e-cigarette companies are advertising heavily across mass media.
- ? For the first time since 1970, Big Tobacco is once again airing TV ads.¹
- ? They have re-introduced the highly stylized ads of the mid-century era, featuring celebrity endorsements and thinly veiled false claims reverting the dialog back to the golden age of cigarette marketing.²
- ? Awareness and positive perceptions of e-cigarettes are high among youth and young adults.³
- ? Due to lack of enforcement of youth access restrictions, youth have easy access to e-cigarettes from sources such as specialty retail shops, regular stores, or the Internet.⁴
- ? Due to widespread marketing and early adoption of these products, youth are being exposed to e-cigarettes in such large numbers that public health officials are concerned this may “renormalize” smoking-behaviors and cigarette use.⁵

LACK OF CONTROL OVER WHAT IS IN E-CIGARETTES

- ? The Davis County Health Department (of Utah) found that amounts of nicotine in e-juice were as much as three times higher than the labeled amount. E-juice labeled as zero nicotine were also found to contain nicotine.
- ? Secondhand vapor exhaled from the e-cigarette user exposes non-users to nicotine.^{6,7}
- ? Due to a lack of regulation of these products and varying ingredients from one to the next, it is impossible to make sweeping statements about what may or may not be in secondhand vapor.
- ? Indoor e-cigarette vapor includes detectable levels of volatile organic compounds.⁸

INADEQUATE INFORMATION ABOUT THE HEALTH RISKS OF E-CIGARETTES

- ? Nicotine is a highly addictive drug. The tobacco industry has a history of making false and misleading public statements regarding their control of the nicotine content and delivery of their products.⁹
- ? Youth are highly sensitive to nicotine and can feel dependence earlier than adults.¹⁰
- ? Nicotine may have potential negative impact on adolescent brain development.¹¹
- ? Nicotine has the following health effects: raises blood pressure and cholesterol, increasing the likelihood of a heart attack or stroke, accelerates growth of existing cancers and produces central nervous cell damage.¹²
- ? Several incidents of nicotine poisoning have resulted from children consuming bottles of e-cigarette nicotine solution; one such incident has already led to the death of a child.¹³
- ? The physical characteristics of nicotine delivery systems can affect their toxicity and addictiveness. Therefore, new nicotine delivery systems should be evaluated independently for their toxic and addictive effects.¹⁴

UNSUBSTANTIATED HEALTH CLAIMS MISLEAD CONSUMERS

- ? To date, the only randomized clinical trial that compared e-cigarettes with conventional nicotine patches failed, by finding no statistically significant difference in the ability of smokers to quit when they used e-cigarettes or nicotine patches.¹⁵
- ? Approved nicotine replacement therapy products are regulated to be safe, consistent and scientifically proven to be effective quitting aids. E-cigarettes are not, currently. More research needs to be done to provide definitive answers about the potential quitting benefits of e-cigarettes.
- ? There is some indication that e-cigarettes may alleviate the desire to smoke¹⁶ and can produce short-term cessation.^{17, 18, 19} however, well-designed safety and efficacy studies are lacking.
- ? Research has shown that most e-cigarette users are “dual users,” meaning that they still continue to smoke conventional cigarettes.²⁰ This is of concern because smoking-related cardiovascular and cancer risks depend more on how long people smoke than on how much they smoke. Dual users are unlikely to gain significant health benefits from smoking a few less traditional cigarettes each day.²¹

¹ <http://money.cnn.com/2013/06/11/news/companies/e-cigarette-tv/>

² 7 Ways E-Cigarette Companies Are Copying Big-Tobacco's Playbook [blog post]. (October 2, 2013). Campaign

for Tobacco Free Kids. Retrieved from:

³ http://www.tobaccofreekids.org/tobacco_unfiltered/post/2013_10_02_ecigarettes

⁴ Chol K. et al. Young Adults' Favorable Perceptions of Snus, Dissolvable Tobacco Products, and Electronic Cigarettes: Findings From a Focus Group Study. *Am J Public Health*. 2012; 102:2088–2093.

⁵ E-Cigarettes and Youth: An Examination of the Public Health and Policy Concerns Over Increased Rates of Youth Use and Exposure to E-Cigarettes. Respiratory Health Association. Tobacco White Paper Series. November 2013. Retrieved from <http://www.lungchicago.org/site/files/487/148613/490314/681242/null>.

⁶ E-Cigarettes [fact sheet]. (October 2013). American Academy of Pediatrics – Julius B. Richmond Center of Excellence. Retrieved from:

http://www2.aap.org/richmondcenter/pdfs/ECigarette_handout.pdf

⁷ <http://ntr.oxfordjournals.org/content/early/2013/12/10/ntr.ntt203.abstract.html>

⁸ <http://www.ncbi.nlm.nih.gov/pubmed/23363041>

⁹ Schripp T., Markewitz D., Ehde E., Salthammer T. (2013). Does e-cigarette consumption cause passive vaping?

Indoor Air, 23: 25-31.

¹⁰ How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General. Chapter 4 Nicotine Addiction: Past and Present, page 5--Tobacco Control Legal Consortium, The Verdict Is In: Findings From United States v. Phillip Morris, Nicotine Levels (2006). Full text of the Court's 1700pg Final Opinion is available at: <http://www.tobaccolawcenter.org/dojlitigation.html>

¹¹ How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General. Chapter 4 Nicotine Addiction: Past and Present, page 3.

¹² How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General. Chapter 4 Nicotine Addiction: Past and Present, page 9.

¹³ <http://betobaccofree.hhs.gov/health-effects/nicotine-health/index.html>

¹⁴ Winer S. (May 29, 2013). Police investigating toddler's death from nicotine poisoning. *The Times of Israel*.

¹⁵ Retrieved from: <http://www.timesofisrael.com/police-investigating-toddler-death-from-nicotine-overdose/>; Shawn L, Nelson L. (2013). Smoking Cessation Can be Toxic To Your Health. *Emergency Medicine*, 45(1):7-9, 19.

¹⁶ Surgeon General's Report, "Nicotine Addiction". 1988. Retrieved from <http://profiles.nlm.nih.gov/ps/access/MNBBZD.ocr>

¹⁷ Bullen C et al. *Lancet*. 2013;382[9905]:1629-1637.

¹⁸ Bullen, C., McRobbie, H., Thornley, S., Glover, M., Lin, R., & Laugesen, M. (2010). Effect of an electronic nicotine delivery device (e cigarette) on desire to smoke and withdrawal, user preferences and nicotine delivery: Randomised cross-over trial. *Tobacco Control*, 19, 98–103. doi:10.1136/tc.2009.031567

¹⁹ (Am J Prev Med 2011;40(4):472–475) © 2011 American Journal of Preventive Medicine

²⁰ Caponnetto P, Campagna D, Cibella F, Morjaria JB, Caruso M, et al. (2013) Efficiency and Safety of an eElectronic cigAreTte (ECLAT) as Tobacco Cigarettes Substitute: A Prospective 12-Month Randomized Control Design Study. *PLoS ONE* 8(6): e66317. doi:10.1371/journal.pone.0066317

²¹ Polosa, R., Caponnetto, P., Morjaria, J., Papale, G., Campagna, D., & Russo, C. (2011). Effect of an electronic nicotine delivery device (e-cigarette) on smoking reduction and cessation: A prospective 6-month pilot study. *BMC Public Health*, 11, 786. doi:10.1186/1471-2458-11-786

²² Regan AK, et al. *Tob Control* 2013; 22(1):19-23; Vickerman KA., et al. *Nicotine Tob Res.*2013;15(10):1787-1791; Pearson JL., et al. *AM J Public Health*.2012;102(9):1758-1766

²³ Bjartveit K,Verdal A. *Tob Control*. 2005;14(5):315-320.

E-Cigarettes and the Utah Indoor Clean Air Act

- ? As of October 2013, three states (North Dakota, New Jersey and Utah) and more than 100 municipalities across the U.S. have added e-cigarettes to their indoor clean air laws.¹

Secondhand Vapor

- ? E-cigarette emissions pollute the air for non-smokers, albeit at lower levels than conventional cigarettes.²
- ? Indoor e-cigarette vapor includes detectable levels of volatile organic compounds.³
- ? Secondhand vapor exhaled from the e-cigarette user exposes non-users to nicotine.⁴
- ? Non-smokers are exposed to similar levels of nicotine whether in a room with someone smoking a cigarette or an e-cigarette.⁵
- ? Due to a lack of regulation of these products and varying ingredients from one to the next, it is impossible to make sweeping statements about what may or may not be in secondhand vapor.

Harmful Effects of Nicotine

- ? Nicotine has the following health effects: raises blood pressure and cholesterol, increasing the likelihood of a heart attack or stroke, accelerates growth of existing cancers and produces central nervous cell damage.⁶

E-cigarettes and Social Norms

- ? Due to widespread marketing and early adoption of these products, youth are being exposed to e-cigarettes in such large numbers that public health officials are concerned this may “renormalize” smoking-behaviors and cigarette use.⁷

¹ U.S. State and Local Laws Regulating Use of Electronic Cigarettes [fact sheet]. (October 1, 2013). American

² Nonsmokers' Rights Foundation. Retrieved from: <http://www.no-smoke.org/pdf/ecigslaws.pdf>

³ <http://ntr.oxfordjournals.org/content/early/2013/12/10/ntr.ntt203.abstract.html>

⁴ Schripp T., Markewitz D., Ehde E., Salthammer T. (2013). Does e-cigarette consumption cause passive vaping?

⁵ *Indoor Air*, 23: 25-31.

⁶ <http://ntr.oxfordjournals.org/content/early/2013/12/10/ntr.ntt203.abstract.html>

⁷ <http://www.ncbi.nlm.nih.gov/pubmed/23363041>

⁸ <http://betobaccofree.hhs.gov/health-effects/nicotine-health/index.html>

⁹ E-Cigarettes [fact sheet]. (October 2013). American Academy of Pediatrics – Julius B. Richmond Center of Excellence. Retrieved from:

http://www2.aap.org/richmondcenter/pdfs/ECigarette_handout.pdf