

PLEASE SEE ATTACHED COPY
FOR

**City of Stilwell
ORDINANCE 390**

Published in the Stilwell Democrat Journal
October 3, 2018



AFFIDAVIT OF PUBLICATION

THE STILWELL DEMOCRAT JOURNAL

State of Oklahoma

County of Adair Keith Neale, of lawful age, being duly sworn and authorized says he is the Editor of the Stilwell Democrat Journal newspaper printed in the City of Stilwell, Adair County, Oklahoma, a newspaper qualified to publish legal notices, advertisements and publications as provided in Section 106 of Title 25, Oklahoma Statutes 1971 as amended, and complies with all other requirements of the laws of Oklahoma with references to legal publication. That said notice, a true copy of which is attached hereto, was published in the regular edition of said newspaper and not any supplements thereof, forconsecutive weeks:

1st insertion _____, 20

2nd insertion _____, 20

3rd insertion _____, 20

4th insertion _____, 20

5th insertion _____, 20

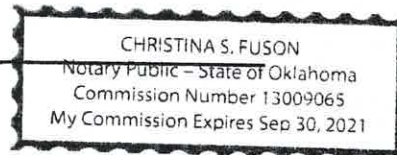
Keith W. Neale
Editor

Subscribed and sworn to me before this 3 day of
October 2018

[Signature]
Notary Public

9-30-21
My Commission expires:

\$4114.50
Publication Fee:



RECEIVED

OCT 03 2018

CITY CLERK'S OFFICE
Stilwell, OK

2018-002579 Book0548 Pg. 941
10/09/2018 8:48 am Pg 0940-0946

Fee: \$ 25.00 Doc: \$ 0.00
Cathy Harrison - Adair County Clerk
State of Oklahoma

ORDINANCE 390

AN ORDINANCE TO REGULATE THE USE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS ON ALL PROPERTIES OWNED AND CONTROLLED BY THE CITY OF STILLWELL

WHEREAS, 21.1 percent of adults in Oklahoma smoke; and

AS, tobacco use is the leading preventable cause of killing more than 7,500 Oklahomans every year; and

AS, tobacco use can cause disease in nearly all organ systems, and is responsible for 87 percent of lung cancer deaths, 79 percent of all chronic obstructive pulmonary disease deaths, and 32 percent of coronary heart disease deaths; and

WHEREAS, studies show that separate smoking areas or rooms, air filters, and ventilation systems are insufficient to protect nonsmokers from secondhand smoke indoors; and

WHEREAS, according to the United States Surgeon General, there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, nearly 50,000 nonsmokers die each year in the United States as a result of exposure to secondhand smoke; and

WHEREAS, research has found that aerosol from vapor products contains chemicals known to cause cancer, birth defects, or other reproductive harm and vapor products may involuntarily expose children, youth, pregnant women, and other bystanders to aerosolized nicotine; and

WHEREAS, smokeless tobacco use increases people's risk of heart disease, stroke, and cancer, specifically oral, esophageal, and pancreatic cancers, as well as stillbirth and pre-term delivery; and

WHEREAS, community policies that fail to prohibit the use of tobacco products normalize tobacco use and make it more likely that people will use tobacco products because they see others using tobacco;

WHEREAS, tobacco use and exposure to secondhand smoke impose an enormous economic burden upon the government, taxpayers, business owners, and individuals through health care costs and lost productivity; as evidenced by the \$16.2 billion Oklahoma spends on smoking-related medical care and \$2.1 billion in lost productivity; and

WHEREAS, laws restricting the use of tobacco products have demonstrated a high return on investment; and

WHEREAS, 81.7 percent of Oklahomans agree that all workplaces in cities and towns should have smoke-free policies; and

WHEREAS, Oklahoma state law prohibits smoking in most indoor workplaces; and

WHEREAS, Oklahoma state law expressly permits municipalities to impose additional regulations on smoking tobacco products on property owned or operated by local governments; and

AS, Oklahoma state law does not preempt local governments from regulating the use of smokeless tobacco products and vapor products;

WHEREAS, in order to fulfill the needs of the community, policies and regulations are necessary to provide a framework for care and safety of the citizens of the City of Stillwell. It is therefore the intent of the City Council of the City of Stillwell, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco product and vapor product use around non-users, especially children; by protecting the public from exposure to secondhand smoke where people work, play, and learn; by reducing the potential for children to wrongly associate tobacco product and vapor product use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City of Stillwell.

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

Section 1 Definitions

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

1. "Indoor Area" means any enclosed area used or visited by employees or the public, at all times, regardless of whether work is being performed. Indoor Area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and any other spaces used or visited by employees, as well as all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like.

2. "Municipal Property" means all buildings, Indoor Areas, and Outdoor Areas, including but not limited to recreational areas, and other property, or portions thereof, owned or operated by the [City / County], including but not limited to vehicles and equipment owned by the municipality.

3. "Outdoor Area" means any area that is not an Indoor Area, and includes outdoor recreational areas.

4. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

5. "Tobacco Product" means any product that contains tobacco and is intended for human consumption. Tobacco Product does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product.

6. "Vapor Product" means any noncombustible product, that may not contain nicotine, that employs a mechanical element, battery, electronic circuit, or other mechanism, as to shape or size, that can be used to produce a vapor solution or other form. Vapor Product shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine,

that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

Section 2 Prohibited Conduct

1. Tobacco Products are prohibited in all places in which such conduct is prohibited by Oklahoma state law.

2. Use of Tobacco Products and Vapor Products is prohibited on all Municipal Property, indoor and outdoor, including parks and recreational areas.

3. Spitting, dumping, or otherwise leaving any residue from tobacco use in a public area is prohibited unless placed in an enclosed trash receptacle. Spitting tobacco residue shall be considered a violation of this ordinance.

4. Nothing in this ordinance prohibits any person or entity from prohibiting the use of Tobacco Products or Vapor Products on their property, even if the use of Tobacco Products or Vapor Products is not otherwise prohibited in that area.

5. No person or entity shall knowingly permit the use of Tobacco Products or Vapor Products in an area that is under the control of that person or entity and in which the use of Tobacco Products or Vapor Products is prohibited by law.

6. No person or entity shall permit the placement of ash receptacles, such as ash trays or ash cans, within an area under the control of that person or entity and in which Smoking is prohibited by law. However, the presence of ash receptacles shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of any provision of this ordinance.

7. No person shall dispose of Tobacco Product or Vapor Product waste within an area in which the use of Tobacco Products or Vapor Products is prohibited.

8. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this ordinance.

Section 3 Required Signs

1. The person or entity that has legal or de facto control of an area in which the use of Tobacco Products or Vapor Products is prohibited by this ordinance shall post a clear, conspicuous, and unambiguous sign at each point of entry to the area, and in at least one other conspicuous point within the area.

2. For restrictions on the use of Tobacco Products or Vapor Products in Indoor Areas, the sign or decal shall be at least 4 inches by 2 inches in size and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided. For restrictions on the use of Tobacco Products or Vapor Products in Outdoor Areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size, with lettering of at least 1 inch, and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided.

3. For purposes of this section, the Mayor or his/her designee shall be responsible for the posting of signs on Municipal Property, both indoor and outdoor.

4. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of any other provision of this ordinance.

Section 4 Penalties and Enforcement

1. Enforcement of this ordinance shall be the responsibility of the Stillwell Police Department. In addition, any peace officer or code enforcement official may enforce this ordinance.

2. Any person who knowingly violates this ordinance shall be punished by a citation and fine of not less than \$25 and not more than \$100.

3. The possession of a lighted Tobacco Product in violation of this ordinance is also considered a public nuisance.

4. The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity.

5. Each instance of Tobacco Product or Vapor Product use in violation of this ordinance shall constitute a separate violation.

6. The use of a Vapor Product in violation of this ordinance is a nuisance.

7. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance regarding Tobacco Product or Vapor Product use shall also constitute a violation of this ordinance.

8. In addition to other remedies provided by this ordinance or by other law, any violation of this ordinance regarding Tobacco Product or Vapor Product use may be remedied by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.

SECTION II Statutory Construction & Severability

The provisions of this ordinance shall be severable and, if any of the provisions shall be held in contravention of the Constitution and laws of the State of Oklahoma, the decisions of the court shall not affect the validity of the remaining portions. It is the intent of this ordinance that the same would have been adopted had such unconstitutional or unlawful provisions, if any, not been included herein.

PASSED by the City Council this 1st day of October, 2018.
APPROVED by the Mayor this 1st day of October, 2018.

/s/ Jim Spray
Jim Spray, Acting Mayor

ATTEST:

Larry Nettles
Larry A. Nettles, City Clerk-Treasurer

(Published in the Stillwell Democrat Journal October 3, 2018)

RECEIVED

OCT 05 2018

CITY CLERK'S OFFICE
STILLWELL, OK

ORDINANCE 390

AN ORDINANCE TO REGULATE THE USE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS ON ALL PROPERTIES OWNED AND CONTROLLED BY THE CITY OF STILWELL

WHEREAS, 21.1 percent of adults in Oklahoma smoke; and

WHEREAS, tobacco use is the leading preventable cause of death, killing more than 7,500 Oklahomans every year; and

WHEREAS, tobacco use can cause disease in nearly all organ systems, and is responsible for 87 percent of lung cancer deaths, 79 percent of all chronic obstructive pulmonary disease deaths, and 32 percent of coronary heart disease deaths; and

WHEREAS, studies show that separate smoking areas or rooms, air filters, and ventilation systems are insufficient to protect nonsmokers from secondhand smoke indoors; and

WHEREAS, according to the United States Surgeon General, there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, nearly 50,000 nonsmokers die each year in the United States as a result of exposure to secondhand smoke; and

WHEREAS, research has found that aerosol from vapor products contains chemicals known to cause cancer, birth defects, or other reproductive harm and vapor products may involuntarily expose children, youth, pregnant women, and other bystanders to aerosolized nicotine; and

WHEREAS, smokeless tobacco use increases people's risk of heart disease, stroke, and cancer, specifically oral, esophageal, and pancreatic cancers, as well as stillbirth and pre-term delivery; and

WHEREAS, community policies that fail to prohibit the use of tobacco products normalize tobacco use and make it more likely that people will use tobacco products because they see others using tobacco;

WHEREAS, tobacco use and exposure to secondhand smoke impose an enormous economic burden upon the government, taxpayers, business owners, and individuals through health care costs and lost productivity, as evidenced by the \$1.62 billion Oklahoma spends on smoking-related medical care and \$2.1 billion in lost productivity; and

WHEREAS, laws restricting the use of tobacco products have demonstrated a high return on investment; and

WHEREAS, 81.7 percent of Oklahomans agree that all workplaces in cities and towns should have smoke-free policies; and

WHEREAS, Oklahoma state law prohibits smoking in most indoor workplaces; and

WHEREAS, Oklahoma state law expressly permits municipalities to impose additional regulations on smoking tobacco products on property owned or operated by local governments; and

WHEREAS, Oklahoma state law does not preempt local governments from regulating the use of smokeless tobacco products and vapor products.

WHEREAS, in order to fulfill the needs of the community, policies and regulations are necessary to provide a framework for care and safety of the citizens of the City of Stilwell:

It is therefore the intent of the City Council of the City of Stilwell, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco product and vapor product use around non-users, especially children; by protecting the public from exposure to secondhand smoke where people work, play, and learn; by reducing the potential for children to wrongly associate tobacco product and vapor product use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City of Stilwell.

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

Section 1 – Definitions

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

1. "Indoor Area" means any enclosed area used or visited by employees or the public, at all times, regardless of whether work is being performed. Indoor Area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and any other spaces used or visited by employees, as well as all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like.
2. "Municipal Property" means all buildings, Indoor Areas, and Outdoor Areas, including but not limited to recreational areas, and other property, or portions thereof, owned or operated by the [City / County], including but not limited to vehicles and equipment owned by the municipality.
3. "Outdoor Area" means any area that is not an Indoor Area, and includes outdoor recreational areas.

4. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.
5. "Tobacco Product" means any product that contains tobacco and is intended for human consumption. Tobacco Product does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product.
6. "Vapor Product" means any noncombustible product, that may or may not contain nicotine, that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. Vapor Product shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

Section 2 – Prohibited Conduct

1. Tobacco Products are prohibited in all places in which such conduct is prohibited by Oklahoma state law.
2. Use of Tobacco Products and Vapor Products is prohibited on all Municipal Property, indoor and outdoor, including parks and recreational areas.
3. Spitting, dumping or otherwise leaving any residue from tobacco use in a public area is prohibited unless placed in an enclosed trash receptacle. Spitting tobacco residue shall be considered a violation of this ordinance.
4. Nothing in this ordinance prohibits any person or entity from prohibiting the use of Tobacco Products or Vapor Products on their property, even if the use of Tobacco Products or Vapor Products is not otherwise prohibited in that area.
5. No person or entity shall knowingly permit the use of Tobacco Products or Vapor Products in an area that is under the control of that person or entity and in which the use of Tobacco Products or Vapor Products is prohibited by law.
6. No person or entity shall permit the placement of ash receptacles, such as ash trays or ash cans, within an area under the control of that person or entity and in which Smoking is prohibited by law. However, the presence of ash receptacles

shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of any provision of this ordinance.

7. No person shall dispose of Tobacco Product or Vapor Product waste within an area in which the use of Tobacco Products or Vapor Products is prohibited.
8. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this ordinance.

Section 3 – Required Signs

1. The person or entity that has legal or de facto control of an area in which the use of Tobacco Products or Vapor Products is prohibited by this ordinance shall post a clear, conspicuous, and unambiguous sign at each point of entry to the area, and in at least one other conspicuous point within the area.
2. For restrictions on the use of Tobacco Products or Vapor Products in Indoor Areas, the sign or decal shall be at least 4 inches by 2 inches in size and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided. For restrictions on the use of Tobacco Products or Vapor Products in Outdoor Areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size, with lettering of at least 1 inch, and shall clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided.
3. For purposes of this section, the Mayor or his/her designee shall be responsible for the posting of signs on Municipal Property, both indoor and outdoor.
4. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of any other provision of this ordinance.

Section 4 – Penalties and Enforcement

1. Enforcement of this ordinance shall be the responsibility of the Stilwell Police Department. In addition, any peace officer or code enforcement official may enforce this ordinance.
2. Any person who knowingly violates this ordinance shall be punished by a citation and fine of not less than \$25 and not more than \$100.
3. The possession of a lighted Tobacco Product in violation of this ordinance is also considered a public nuisance.

4. The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity.
5. Each instance of Tobacco Product or Vapor Product use in violation of this ordinance shall constitute a separate violation.
6. The use of a Vapor Product in violation of this ordinance is a nuisance.
7. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance regarding Tobacco Product or Vapor Product use shall also constitute a violation of this ordinance.
8. In addition to other remedies provided by this ordinance or by other law, any violation of this ordinance regarding Tobacco Product or Vapor Product use may be remedied by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.

SECTION II. Statutory Construction & Severability


The provisions of this ordinance shall be severable and, if any of the provisions shall be held in contravention of the Constitution and laws of the State of Oklahoma, the decisions of the court shall not affect the validity of the remaining portions. It is the intent of this ordinance that the same would have been adopted had such unconstitutional or unlawful provisions, if any, not been included herein.

PASSED by the City Council this 1st day of October, 2018.


APPROVED by the Mayor this 1st day of October, 2018.

ATTEST:





Jim Spray, Acting Mayor



Larry A. Nettles, City Clerk-Treasurer