

1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 92: HEALTH AND SANITATION BY ADDING A SUBCHAPTER ENTITLED “TOBACCO FREE POLICY FOR ALL CITY PROPERTY.”

WHEREAS, that the City of Sioux Falls, South Dakota (“City”) finds that tobacco product use is unhealthy and, when used in proximity of children, youth, and adults is detrimental to the health of others;

WHEREAS, cigarette smoking is responsible for more than 480,000 deaths per year in the United States, and breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Department of Health and Human Services determined in 2014 that secondhand smoke is responsible for the early deaths of more than 41,000 Americans annually;

WHEREAS, smokeless tobacco is associated with many health problems, including cancer, diseases of the mouth, heart disease, and stroke;

WHEREAS, that the Americans With Disabilities Act, which requires disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability and that tobacco product use may interfere with disabled persons’ ability to have equal access to public places and workplaces;

WHEREAS, that the City finds that tobacco products once consumed in public areas are often discarded on the ground, thus posing a risk of ingestion by toddlers and wildlife and causing a litter problem and other environmental harm;

WHEREAS, that the City finds that the use of electronic smoking devices is an emerging public health issue as studies have found carcinogens and toxins are contained in e-cigarettes;

WHEREAS, that the City finds that it is in the best interests of the public health, safety, and welfare to adopt a Tobacco Free Policy for All City Property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That the Code of Ordinances of Sioux Falls, SD, are hereby amended by adding a subchapter to be titled, “Tobacco Free Policy for All City Property.”*

*Section 2. That the Code of Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 92.210 to read:*

**§ 92.210 Definitions.**

For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Tobacco Product.** Any product made or derived from tobacco that is intended for human use, including any component part, or accessory of a tobacco product. A tobacco product includes, but is not limited to, cigarettes, cigars, pipes, electronic smoking devices, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, and dissolvable tobacco.

**Electronic Smoking Device.** Any device that can be used to deliver an aerosolized solution that may or may not contain nicotine to the person inhaling from the devices, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, or other simulated smoking device. Nicotine products approved by the United States Food and Drug Administration for tobacco cessation shall be allowed.

**City Property.** All property owned, leased, or operated by the city, including but not limited to all city parks; city golf courses; city buildings; any ticket, boarding, and waiting areas of any public transit depots; public parking strip; and any public sidewalks abutting any city property.

*Section 3. That the Code of Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 92.211 to read:*

**§ 92.211 Prohibited Conduct.**

That the use of tobacco products and electronic smoking devices is hereby prohibited on any city property.

That the use of tobacco products and electronic smoking devices is hereby prohibited in all vehicles owned, leased, or operated by the city.

*Section 4. That the Code of Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 92.212 to read:*

**§ 92.212 Education and Enforcement.**

That the city's public health director shall develop a comprehensive tobacco education program to educate the public about the harmful effects of tobacco product use.

That the city's public health director shall conduct informational activities to notify and educate the public about the city's tobacco free policy.

That the city's public health director may publish and distribute educational materials relating to this subchapter.

Signs will be posted at city property notifying the public of this subchapter.

Any person who fails to comply with the provisions of this subchapter and defies an order to stop such tobacco use shall be in violation of this subchapter and shall be subject to the penalty provisions of §10.999.

That in addition to the penalty provisions of §10.999, any person who manages, operates, or otherwise controls city property who commits a violation of this subchapter may be subject to the suspension or revocation of any permit, license, or authorization issued to that person for use of the premises on which the violation occurred.

That this subchapter is cumulative of other state laws that regulate tobacco product use and smoking, including but not limited to South Dakota Codified Law ch. 34-46 and city Ordinance §130.010, which prohibits smoking in any City-owned buildings, as amended from time to time.

Date adopted: \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk