

ORDINANCE NO. 2015-11-045

AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING CHAPTER 8.16 OF THE BELLINGHAM MUNICIPAL CODE, SMOKING IN PUBLIC PLACES, TO INCLUDE PARKS AND TRAILS AND TO INCLUDE ELECTRONIC SMOKING DEVICES.

WHEREAS, the Council has adopted Legacy and Strategic Commitment statements including a Healthy Environment and Access to Quality of Life Amenities; and

WHEREAS, City-owned property, including public parks, trails and open space are intended for the healthy enjoyment of all citizens; and

WHEREAS, smoking materials include cigarettes, cigarette butts and cigars all of which pose a risk of fire or other damage to public park facilities, trails, equipment, forests, landscaping, and the like; and

WHEREAS, the City's parks are intended for the healthy enjoyment of all our citizens, including our children and youth; and

WHEREAS, the City-owned property, including public parks, trails and open space are appropriate venues for the promotion of healthy lifestyles, and allowing smoking at these venues can send a conflicting message to children, youth and adults that the use of tobacco products is consistent with a healthy lifestyle; and

WHEREAS, studies have shown that children and youth that are exposed to smoking and other tobacco use are more likely to smoke when they get older; and

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

- 480,000 people die prematurely in the United States from smoking-related diseases every year, making tobacco use the nation's leading cause of preventable death; and
- 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, the U.S. Surgeon General concluded that there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the

following:

- Since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to secondhand smoke; and
- Secondhand smoke is responsible for an estimated 41,300 heart disease-related and lung cancer-related deaths among adult nonsmokers each year in the United States; and
- Exposure to secondhand smoke increases the risk of coronary heart disease by 25 percent to 30 percent and increases the risk of stroke by 20 percent to 30 percent; and

WHEREAS, tobacco use and exposure to secondhand smoke impose great social and economic costs, as evidenced by the following:

- Between 2009 and 2012, the total annual economic burden of smoking in the United States was between \$289 billion and \$332.5 billion; and
- From 2005 to 2009, the average annual health care expenditures attributable to smoking were approximately \$132.5 billion to \$175.9 billion in direct medical care costs for adults and \$151 billion in lost productivity; and

WHEREAS, laws restricting the use of tobacco products have recognizable benefits to public health and medical costs with a review of over 80 peer-reviewed research studies showing that smoke-free policies effectively do the following:

- Reduce tobacco use: tobacco use is reduced by median of 2.7 percent; and
- Reduce exposure to secondhand smoke: air pollution is reduced by a median of 88 percent and biomarkers for secondhand smoke are reduced by a median of 50 percent; and
- Increase the number of tobacco users who quit by a median of 3.8 percent; and
- Reduce initiation of tobacco use among young people; and
- Reduce tobacco-related illnesses and death: there is a 5.1 percent median decrease in hospitalizations from heart attacks and a 20.1 percent decrease in hospitalizations from asthma attacks after such laws are passed; and

WHEREAS, laws restricting electronic smoking devices use also have benefits to the public as evidenced by the following:

- Research has found at least ten chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm, such as formaldehyde, acetaldehyde, lead, nickel, and toluene; and

- Additional scientific research concludes that electronic cigarettes emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking. There is evidence that nitrosamines, a group of carcinogens found specifically in tobacco, are carried over into the e-cigarette fluid from the nicotine extraction process.
- There is also evidence that the glycol carriers can be oxidized by the heating elements used in e-cigarettes to vaporize the liquids, creating aldehydes such as formaldehyde.
- More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vaping; and
- The use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment; and

WHEREAS, cigarette butts are a major and persistent source of litter, as evidenced by the following:

- In 2007, it was estimated that Americans consume 360 billion cigarettes each year; and
- 55.7 percent of smokers admit to littering cigarettes in the last month; and
- In an observational study of nearly 10,000 individuals, after cigarettes were smoked, 45 percent of cigarettes ended up as litter; and
- In 2011, 22.6 percent of all debris collected from beaches and coastal areas are smoking related products; and
- Cigarette butts are often cast onto sidewalks, streets, parks and trails, and frequently end up in storm drains that flow into streams, rivers and ultimately the ocean; and

WHEREAS, cigarette butts pose a health threat to young children and to wildlife, as evidenced by the following:

- In 2012, American poison control centers received nearly 8,648 reports of poisoning by the ingestion of cigarettes, cigarette butts, and other tobacco products and 84.5 percent of these poisonings were in children ages five and younger; and
- Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging; and

WHEREAS, the City Council wishes to enhance public health and enjoyment by prohibiting smoking in city parks and on city trails.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN as follows:

Section 1. Bellingham Municipal Code Chapter 8.16 is hereby amended as follows:

8.16.010 Legislative intent.

The city council recognizes the increasing evidence that tobacco smoke may create a danger to the health of the citizens of this city. In order to protect the health and welfare of those citizens, it is necessary to prohibit smoking in public places except in areas designated as smoking areas.

8.16.020 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

“Public place” means that portion of any land, building, facility or vehicle owned or operated by the city and open to the public, and regardless of whether a fee is charged for admission.

“Public places” include, but are not limited to: parks, trails, open space, elevators, conveyances or transportation facilities, vehicles, museums, concert halls, theaters, auditoriums, exhibition halls, seating areas of indoor and outdoor sports and recreation facilities, ticket areas, hearing facilities, meeting facilities, legislative chambers and immediately adjacent hallways, restrooms, libraries, waiting areas, lobbies, and reception areas. For purposes of this Chapter, the term "public places" does not include streets, alleys, or sidewalks.

“Smoke” or “smoking” means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, any other lighted smoking equipment or an operating electronic smoking device.

"Electronic Smoking Device" shall mean an electronic or battery-operated device that delivers vapors for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor.

8.16.030 Smoking in public places except designated smoking areas prohibited.

No person may smoke in a public place except in designated smoking areas.

8.16.040 Designation of smoking areas in public places – Entire facility or area may be designated as nonsmoking.

- A. A smoking area may be designated in a public place by the mayor.
- B. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.
- C. Except as otherwise provided in this chapter, a building, facility or other area may be designated in its entirety as a nonsmoking area by the mayor.

8.16.050 Signs prohibiting or permitting smoking.

Signs prohibiting or permitting smoking as appropriate under this chapter shall be posted conspicuously at each entrance to city buildings and facilities. For city parks, trails and open space, the Director of the Parks and Recreation Department shall post signs prohibiting smoking at locations reasonably determined by the Director to provide notice of the prohibition. The boundary between a nonsmoking area and a smoking permitted area shall be clearly designated so that persons may differentiate between the two areas.

8.16.060 Intentional violation of chapter – Removing, defacing, or destroying required sign – Fine – Notice of infraction.

Any person intentionally violating this chapter by smoking in a public place not designated as a smoking area, or any person removing, defacing, or destroying a sign required by this chapter, is subject to a civil fine of up to \$250.00. Law enforcement personnel shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions.

8.16.070 Severability.

If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

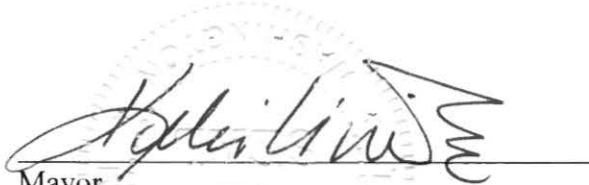
Section 2. This ordinance shall be reviewed by Council by December 31, 2016 to determine whether further changes are warranted.

PASSED by Council this 16th day of November, 2015.




Council President

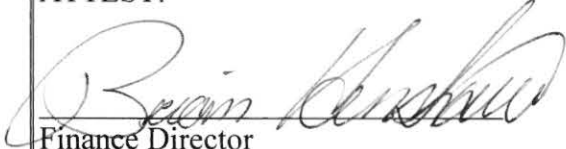
APPROVED by me this 30th day of November, 2015.



Mayor



ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published:

November 20, 2015