

ORDINANCE NO. 700-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PAGE, ARIZONA, AMENDING THE PAGE CITY CODE OF ORDINANCES BY ADOPTING A NEW CHAPTER 96 RELATING TO THE REGULATION OF SMOKING AND ELECTRONIC CIGARETTES; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, the smoking of tobacco and vaping is a health danger to those exposed to the smoke and/or vapor and is a source of annoyance and discomfort to those present in confined areas where such smoke and vapor is present; and

WHEREAS, the City seeks to protect public health, safety, and welfare by regulating the smoking of tobacco products and e-cigarettes in public and enclosed spaces; and

WHEREAS, A.R.S. § 9-802 allows a City to adopt a public record by ordinance.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Page, Arizona, as follows:

Section I. Public Record.

Chapter 96, Smoking and Electronic Cigarette Regulations, as set forth in Exhibit A, attached hereto and incorporated herein by reference, is hereby declared a public record. A minimum of one paper copy and one electronic copy of Exhibit A shall be maintained in compliance with A.R.S. § 44-7041 in the office of the City Clerk and shall be available for public inspection during normal business hours.

Section II. Adoption.

The Page City Code of Ordinances for the City of Page, Arizona, is hereby amended by adding a new Chapter 96, Smoking and Electronic Cigarette Regulations, as set forth in Exhibit A, and that the amendments set forth therein are hereby approved and adopted.

Section III. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section IV. Effective Date.

The effective date of this Ordinance shall be 30 days following adoption by the City Council.

Section V. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VI. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section VII. Penalties.

Any person found responsible for violating this Ordinance shall be subject to the penalties for a civil offense as set forth in Section 96.06, Violations and Penalties, as set forth in Exhibit A.

Section VIII. Typographical Errors.

The City Clerk is authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk is authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with the Page City Code of Ordinances.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAGE, COCONINO COUNTY, ARIZONA this 16th day of November, 2022, by the following vote:

Ayes	<u>7</u>
Nays	<u>0</u>
Abstentions	<u>0</u>
Absent	<u>0</u>



CITY OF PAGE

By:

William R. Diak
WILLIAM R. DIAK, MAYOR

ATTEST:

Ayn Larson
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

EXHIBIT A

CHAPTER 96 SMOKING AND ELECTRONIC CIGARETTE REGULATIONS

Sec. 96.01	Definitions
Sec. 96.02	Smoking Prohibitions; Exceptions
Sec. 96.03	Declaration by Establishment
Sec. 96.04	Signage
Sec. 96.05	No Retaliation
Sec. 96.06	Violations and Penalties

Sec. 96.01 Definitions.

The below words and phrases, wherever used in this chapter, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

"Electronic cigarette" means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

"Employee" means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.

"Employer" means a person, business, partnership, association, the state of Arizona and its political subdivisions, corporations, including a municipal corporations, trust, or non-profit entity that employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.

"Health care facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill,

laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

"Person" means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

"Physically separated" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.

"Places of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

"Veteran and fraternal clubs" means a club as defined in A.R.S. 4-101(7)(a)(b) or (c).

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

"Retail tobacco store" means a retail store that derives the majority of its sales from tobacco or electronic cigarette/vape products and accessories.

"Smoking" or "to smoke" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form. "Smoking" includes the use of an electronic cigarette.

"Sports facilities" means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

Sec. 96.02 Smoking Prohibitions; Exceptions.

- A. Smoking is prohibited in all public places and places of employment within the City of Page, except the following:
1. Private residences, except when used as a licensed child care, adult day care, or health care facility.
 2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than fifty percent of rooms rented to guests in a hotel or motel are so designated.
 3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.
 4. Veterans and fraternal clubs when they are not open to the general public.
 5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian religious freedom act of 1978.
 6. Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.
 7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.

Sec. 96.03 Declaration by Establishment.

Notwithstanding any other provision of this section, an owner, operator, manager, or other person or entity in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

Sec. 96.04 Signage.

A. "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 by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.

B. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

C. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.

Sec. 96.05 No Retaliation.

No employer may discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.

Sec. 96.06 Violations and Penalties.

A. A person who smokes or uses electronic cigarettes in an area where smoking and electronic cigarettes are prohibited by the provisions of this chapter shall be subject to a citation for a civil offense, punishable by a fine not exceeding three hundred dollars (\$300.00).

B. A person who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this chapter shall be subject to a citation for a civil offense, punishable by a fine not exceeding five hundred dollars (\$500.00).

C. Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

D. The remedies provided in this chapter shall be cumulative and in addition to any other federal, state, or local remedy, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order, or regulation.