

This ordinance
was not adopted.

**BOARD OF SUPERVISORS
BOONE COUNTY, IOWA**

ORDINANCE NO. 135

ORDINANCE ADOPTING THE BOONE COUNTY BOARD OF HEALTH REGULATION No. 20170001 – PROHIBITING THE USE OF ELECTRONIC SMOKING DEVICE IN PUBLIC PLACES; REPEALING ANY AND ALL REGULATIONS OR PARTS OF REGULATION IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, The Boone County Board of Health held a public hearing on July 17, 2017 to consider Regulation No. 20170001, no written or oral comments were made, and

WHEREAS, The Boone County Board of Health voted to approve Regulation No. 20170001 and forward onto the Boone County Board of Supervisors requesting adoption of Ordinance # 135 as follows:

A REGULATION ENACTED FOR THE PURPOSE OF PROHIBITING THE USE OF ELECTRONIC SMOKING DEVICE IN PUBLIC PLACES; REPEALING ANY AND ALL REGULATIONS OR PARTS OF REGULATIONS IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT APPROVED, by the Boone County Board of Supervisors for Boone County, Iowa:

Section One. The regulations of the Boone County Board of Health shall be and the same are hereby amended by enacting a new Regulation # 2017001 as follows:

“PROHIBITING USE OF ELECTRONIC SMOKING DEVICE PROHIBITED IN PUBLIC PLACES”

- (1) The use of an electronic smoking device is prohibited and a person shall not use such device in any of the following:
 - a. Public places.
 - b. All enclosed areas within places of employment including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased or provided by the employer.
- (2) In addition to the prohibitions specified in subsection 1, the use of an electronic smoking device is prohibited and a person shall not use such device in or on any of the following outdoor areas:
 - a. The seating areas of outdoor sports arenas, stadiums, amphitheaters, and other entertainment venues where members of the general public assemble to witness entertainment events.
 - b. Outdoor seating or serving areas of restaurants.

- c. Public transit stations, platforms, and shelters under the authority of the County.
- d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds.
- e. The grounds of any public buildings owned, leased, or operated under the control of the County.

(3) Definitions.

- a. Electronic smoking device: means any product containing or delivering nicotine (e.g. Electronic Nicotine Delivery System, ENDS) or any other 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.
- b. Public place: means an enclosed area to which the public is invited or in which the public is permitted, including common areas, and including but not limited to all of the following:
 - i. Financial institutions.
 - ii. Restaurants.
 - iii. Bars.
 - iv. Public and private educational facilities.
 - v. Health care provider locations.
 - vi. Hotel and motels.
 - vii. Laundromats.
 - viii. Public transportation facilities and conveyances under the authority of the County, including buses and taxicabs, and including the ticketing, boarding, and waiting areas of these facilities.
 - ix. Aquariums, galleries, libraries, and museums.
 - x. Retail food production and marketing establishments.
 - xi. Retail service establishments.
 - xii. Retail stores.
 - xiii. Shopping malls.
 - xiv. Entertainment venues including, but not limited to, theaters; concert halls; auditoriums and other facilities primarily used for exhibiting motion pictures, stage performances, lectures, musical recitals, and other similar performances; bingo facilities; and indoor arenas including sports arenas.
 - xv. Polling places.
 - xvi. Convention facilities and meeting rooms.
 - xvii. Public buildings and vehicles owned, leased, or operated by or under the control of the County.
 - xviii. Service lines.
 - xix. Private clubs only when being used for a function to which the general public is invited.
 - xx. Private residences only when used as a child care facility, a child care home, or health care provider location.
 - xxi. Child care facilities and child care homes.
 - xxii. Gambling structures, excursion gambling boats, and racetrack enclosures.
 - xxiii. Any other place defined under "public places" in Chapter 142D of the Code of Iowa.

- (4) Notwithstanding any provision of this ordinance to the contrary, retail establishments which sell electronic smoking devices as their primary merchandise line are exempt from the use restrictions of this ordinance.

(5) Violation of this section shall be a municipal infraction punishable by a penalty of \$100 for a person's first violation thereof and \$200 for each repeat violation. Alternatively, violation of this section can be charged by a peace officer of the County as a simple misdemeanor."

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

ACTION UPON FIRST READING

DATE: August 16, 2017

Moved by: Zinnel

Seconded by: Behn

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Steve Duffy Bill Zinnel

Chad Behn

ACTION UPON SECOND READING

DATE: August 23, 2017

Moved by: Zinnel

Seconded by: Behn

Discussion: motion was made to disapprove second reading and to vacate proposed Ordinance.

AYES (A), NAYES (N), ABSENT (X):

Steve Duffy Bill Zinnel

Chad Behn

ACTION UPON FINAL READING

DATE: August 30, 2017

Moved by: NOT HELD

Seconded by: _____

Discussion:

AYES (A), NAYES (N), ABSENT (X):

Steve Duffy Bill Zinnel

Chad Behn

Chairman
Boone County Board of Supervisors

Date

ATTEST:

Date

Philippe E. Meier, County Auditor