

A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AMENDING CHAPTER 42 OF THE CODE OF THE CITY OF NEVADA, MISSOURI, BY APPROVING AND ADOPTING A POLICY PROHIBITING SMOKING AND THE USE OF ELECTRONIC CIGARETTES (E-CIGARETTES) IN PUBLIC PLACES.

WHEREAS, the 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke; the 2010 U.S. Surgeon General's Report, How Tobacco Smoke Causes Disease; and The Public Health Service's National Toxicology Program all emphasize the negative effects of smoking, whether primarily inhaled or inhaled as second-hand smoke; and

WHEREAS, the American Society of Heating, Refrigeration and Air Conditioning Engineers, in basing its ventilation standards on totally smoke-free environments, states that there is NO air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in second-hand smoke; and

WHEREAS, the Food and Drug Administration, after testing the unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or e-cigarettes, which closely resemble and mimic the act of smoking, found not only nicotine but also detectable levels of known carcinogens and toxic chemicals in the e-cigarettes, and the vapor is of potentially harmful substances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, AS FOLLOWS:

Section 1. Chapter 42 of the Code of the City of Nevada, Missouri is hereby amended by adding Article II Smoking and the Use of Electronic Cigarettes in Public Places, as follows:

ARTICLE II. – SMOKING AND THE USE OF ELECTRONIC CIGARETTES IN PUBLIC PLACES

Sec. 42-26. - Definitions.

Smoking is defined as the inhaling, exhaling, burning or carrying of any lighted cigarette, cigar, pipe, plant material or combustible substance in any manner or in any form; including the use of an electronic cigarette or similar device for the inhalation of smoke, gas or vapor. An electronic cigarette or e-cigarette is a device used to simulate the experience of smoking by generating an airborne emission such as smoke, gas or vapor.

Sec. 42-27. - Restrictions.

Except as provided in this Article, smoking and the use of e-cigarettes, is unlawful in any of the following places used by or open to the public or serving as a place of work:

1. Any commercial establishment including, but not limited to, retail stores, banks, office buildings, offices, restaurants, bars and hookah lounges (or establishments of a like nature);
2. Any public transportation vehicle, including, but not limited to, buses, limousines for hire, and taxicabs;
3. Restrooms;
4. Libraries, educational facilities, day care facilities (child or adult), museums, auditoriums, churches, and art galleries;
5. Any indoor public area of a health care facility, health clinic, or ambulatory care facility including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, nursing homes, long-term care facilities, and offices of health professionals;
6. Any indoor place of entertainment or recreation including, but not limited to, bowling alleys, theaters, gymnasiums, concert halls, bingo halls, arenas and swimming pools;
7. All public areas and waiting rooms of public transportation facilities including, but not limited to bus and airport facilities;
8. Any other enclosed areas serving as a place of work or used by the public including open office landscaping and shopping malls;
9. Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence;
10. All buildings and structures owned or managed by the City of Nevada. This subsection shall not apply to any person in a motor vehicle, not owned or controlled by the City of Nevada;
11. Within twenty (20) feet outside, horizontally measured, of any entrance to any structure in which smoking is prohibited or limited by this Article. This subsection shall not apply to any person in a motor vehicle or to any person merely passing by an entrance used for public access to a structure;
12. The seating area and enclosed spaces of any stadium, outdoor arena or athletic field;
13. Eighty percent (80%) of hotel and motel sleeping rooms, which shall be contiguous and all on one floor and which shall have no infiltration of smoke to other rooms anywhere within the premises. All non-smoking rooms shall have signage outside the room saying the room is non-smoking;
14. All vehicles owned or controlled by the City of Nevada; and
15. Any private club, whether organized for fraternal, social, beneficent or other purposes;
16. The entire facility, inside and outside, if the proprietor or person in control declares the property to be non-smoking;
17. Any industrial facility or enterprise, whether engaged in the manufacture, remanufacture, modification, or adjustment of any product, whether edible or inedible.

Sec. 42-28. - Exemptions.

Except as otherwise provided in this Section the restrictions of this Ordinance shall not apply to:

1. A designated “patio area” of any bar, restaurant or other commercial establishment, if such “patio area” has no more than three (3) walls, or has no overhead cover and such designated “patio area” shall be open to outside air and no closer than twenty (20) feet, measured horizontally, from the main entrance to the establishment; the patio door must remain closed.
2. Areas of public parks, stadiums, arenas and other like structures that have been designated as a “smoking area”, each and all of which shall be no closer than fifty (50) feet measured horizontally from the area normally and usually used for seating or eating for the general public.
3. Private residences, regardless if a portion of the residence is used for business purposes.
4. Private Clubs may by majority vote of their governing body elect to be exempt.
5. Retail Commercial establishments will be exempt if 75% of the entity’s gross income is from the sale of vaping materials or tobacco.

Sec. 42-29. - Responsibility of Proprietors.

1. The proprietor or other person having control of a place governed by this Article shall prominently post the entrance thereof with “NO SMOKING” signs, as applicable, in letters no less than one (1) inch in height in every place where the smoking or the use of e-cigarettes is regulated by this Article;
2. The proprietor or other person having control of a place governed by this Article shall cause all ashtrays to be removed from the premises;
3. The proprietor or other person having control of a place governed by this Article upon observing a person smoking or using e-cigarettes shall immediately request that person cease that action;
4. If that person smoking or using e-cigarettes fails to immediately comply with the request, the proprietor or other person in control shall refuse service to the user and request them to leave the premises;
5. If that person smoking or using e-cigarettes fails to peaceably leave the premises, the proprietor or other person having control shall request assistance from the police force of the City of Nevada.

Sec. 42-30. – Penalty.

The penalty will be in accordance with City of Nevada Code Section 1-7. – General Penalty.

Sec. 42-31. - Notice.

The City of Nevada shall give a notice of the provisions of this ordinance to all applicants for a business license in the City of Nevada, Missouri, both initially and at each renewal thereafter. Additionally, all city employees shall inspect for compliance while undergoing otherwise mandated inspections.

Sec. 42-32. - Complaint.

Any person who desires to register a complaint under this ordinance may initiate enforcement with the police department.

Section 2. This ordinance shall be in full force and effect beginning January 1, 2018.

PASSED, APPROVED and ADOPTED by the City Council of the City of Nevada, Missouri this 1st day of August, 2017.

CITY OF NEVADA, MISSOURI

By _____
Brian L. Leonard, Mayor

(SEAL)
Attest:

Johnna Williams, Deputy City Clerk