ORDINANCE NO. 4249

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW SECTION 17.36 THEREOF, FOR THE PURPOSE OF PROHIBITING THE USE OF ELECTRONIC SMOKING DEVICE IN PUBLIC PLACES; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Section 17.36 as follows:

"Sec. 17.36. 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 city.

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 city.

(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. Hotels and motels.

vii. Laundromats.

viii. Public transportation facilities and conveyances under the authority of the city, 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 city

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 City 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.

Passed this 9th day of February, 2016.

Diane R. Voss

Diane R. Voss, City Clerk

Ann H. Campbell

Ann H. Campbell, Mayor