

## **Prohibition of Tobacco Use in Town Buildings, Town Vehicles, on Town Grounds and in Specific Public Areas**

### **Section 42.5. Authority.**

This section is enacted pursuant to authority conveyed by N.C.G.S. §130A-498 and 160A-174(a).

### **Section 42.6. Definition of Terms.**

The following definitions are applicable to this Section:

- (a) *Town building* – A building owned, leased as lessor, or the area leased as lessee and occupied by the Town and includes but is not limited to offices, restrooms, indoor walkways, stairwells, entrances, passageways, break rooms, lobbies, and work areas.
- (b) *Grounds* —An unenclosed area owned, leased, or occupied by the Town of Waynesville.
- (c) *Town vehicle* – A passenger-carrying vehicle owned, leased, or otherwise controlled by the Town of Waynesville and assigned permanently or temporarily by the Town of Waynesville to Town employees, agencies, institutions, or facilities for official Town business.
- (d) *Employee* – A person who is employed by the Town of Waynesville, or who contracts with the Town or a third person to perform services for the Town, or who otherwise performs services for the Town with or without compensation.
- (e) *Local Health Department* – The public health authority, or Haywood County Health Department, the jurisdiction of which includes the Town of Waynesville.
- (f) *Universal ‘No Smoking and Use of Tobacco Products Prohibited’ Symbol* – Symbol consisting of a pictorial representation of a burning cigarette and a tobacco product enclosed in a red circle with a red bar across it.
- (g) *Smoking* – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
- (h) *Tobacco product* –Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part or accessory of a tobacco product, including but not limited to: cigarettes; cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff; snuff flour, Cavendish; plug and twist tobacco, fine-cut and other chewing tobacco, shorts; refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco. A tobacco product excludes any product that has been

approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

- (i) *E-cigarettes/vapor product* — any electronic oral device, such as one composed of heating elements, battery, and/or electronic circuit, which provides a vapor or nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

## **Section 42.7            Areas where use of tobacco products is prohibited**

A. Tobacco products are prohibited in the following locations:

- (1) Inside all buildings or structures owned or leased by the town.
- (2) In any vehicle owned or leased by the town.
  - a. No person shall smoke or use any tobacco product or e-cigarette/vapor product as defined in section 42.6 (h) and (i) in any Town of Waynesville vehicle.
- (3) On the following grounds and locations owned or leased by the town\*:
  - a. On all sidewalks in front of any building or structure owned or leased by the town.
  - b. Within a fifty (50) foot radius of any public entrance to any building or structure owned or leased by the town.
  - c. Within a thirty (30) foot radius of any non-public entrance to any building or structure owned or leased by the town.
  - d. Within any park or greenway owned or leased by the town, including but not limited to the thirty-nine (39) acres of parks identified as: Waynesville Recreation Center, Waynesville Skate Park, Waynesville Disc Golf Course, Old Armory Recreation Center, East Street Park, Recreation Park, Vance Street Park, Sulphur Springs Park, Hazelwood Park, Pepsi Dog Park and any future areas designated as parks or greenways.

\*Individuals may use tobacco products within the confines of their personal vehicles.

- (4) Smoking is prohibited in the following public areas:
  - a. Within a fifty (50) foot radius of any public entrance to any building or structure within the Municipal Service District and including but not limited to the Central Business District (CBD), Hazelwood Business District (H-BD), South Main Street Business District (SM-BD), Regional Center (RC) Dellwood/Junaluska Regional Center (DJ-RC), Hyatt Creek Regional Center (HC-RC), and Russ Avenue Regional Center (RA-RC)

as outlined by the Town of Waynesville Code of Ordinances Appendix A – Land Development Standards, Chapter 2 – District Provisions, Section 2.2 and 2.3.6 and 2.3.7, as applicable.

**Section 42.8 Litter from tobacco products**

- (a) It shall be unlawful for anyone to deposit any portion of a cigarette, cigar, smoking device, or any refuse related to smoking on property, sidewalks, streets, alleys and rights-of-way owned, leased or maintained by the town, except in a receptacle designated for that purpose. Littering or failure to use indicated receptacles is subject to civil penalty.
- (b) It shall be unlawful for anyone to spit smokeless tobacco anywhere on town grounds including parks and recreational areas is prohibited and is subject to civil penalty.

**Section 42.9 Authority of Town Manager to designate smoking areas**

- (a) The Town Manager shall have the authority to designate smoking areas for all Town grounds.

**Section 42.10 Notice Required**

- (a) Clear and conspicuous signs shall be posted in every building and facility and/or grounds wherein tobacco use is regulated by this article as follows:
  - 1. Stand alone No Smoking, No Smokeless Tobacco, or other signs stating the tobacco use policy shall have letters of not less than one inch in height, the international No Smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it), or the No Smokeless Tobacco symbol.
  - 2. In lieu of or in addition to stand alone signage, tobacco use restrictions can be incorporated into comprehensive rules signage in text form where feasible.
- (b) Signs shall be conspicuously posted in a position clearly visible on main entry points into Town buildings.
- (c) Signs shall be conspicuously posted outside, within, or near recreational public places where tobacco use is prohibited, but not at every conceivable entry point whereby doing so would overburden the park or area with signage.
- (d) It shall be unlawful for any person to remove to deface any placard or sign erected by or under the authority of this section.

### **Section 42.11            Implementation Requirements**

- (a) The Town shall post signs that meet all the requirements in Section 42.11 of this ordinance.
- (b) The Town may locate ash urns or other smoking receptacles in designated smoking areas. Absence of smoking receptacles does not relieve tobacco users from legally disposing of tobacco waste nor does it nullify a designated smoking area.
- (c) Town staff shall make every effort to ensure compliance with this policy, including contacting law enforcement personnel if necessary.

### **Section 42.12            Enforcement and Penalties**

- (a) *Penalty for Violation.* Violation of Sections 42.7 or 42.8 shall be punishable by a civil penalty of not more than fifty dollars (\$50.00).
- (b) A citation may be issued by any town employee acting in an enforcement capacity and within their responsibilities related to the issuing of citations. A citation issued under this section has no consequence other than as set forth in (a) above, and no court costs may be assessed.
- (c) *Additional sanctions for employees.* In addition to any penalty under this section, employees of the Town who violate this ordinance shall be subject to disciplinary action consistent with the Town's human resources policies.

### **Section 42.13            Severability; Conflict of Laws**

If this ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the ordinance that can be given separate effect and to that end the provisions of this ordinance are declared to be severable. Whenever the provisions of this ordinance conflict with other ordinances of the Town of Waynesville, this ordinance shall govern.