

PUBLIC WORKS AND UTILITIES COMMITTEE

13-059-0

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 28-63 AND 28-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE USE OF ELECTRONIC CIGARETTES.

BY COUNCILORS JULSRUD AND KRUG:

The city of Duluth does ordain:

Section 1. That Section 28-63 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 28-63. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning hereinafter ascribed to them:

(a) Electronic cigarette shall mean any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name;

(~~a~~b) Kitchi Gammi Park, for the purposes of this Article only, shall mean that park located on land located between Congdon Boulevard and Lake Superior and between the Lester River and 69th Avenue East;

(~~b~~c) Lake Place shall mean that structure elevated over the right-of-way of Interstate Highway 35 between Lake Avenue and Fourth Avenue East containing park-like amenities;

(~~c~~d) Lakewalk shall mean the constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Duluth Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park;

(~~d~~e) Leif Ericson Park shall mean that property used for park purposes located between the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad and the shoreline of Lake Superior and between Eighth Avenue East and 13th Avenue East;

(~~e~~f) Medical facility shall mean any medical hospital, medical or dental clinic;

(~~f~~g) Prohibited substances shall mean any tobacco related product, electronic cigarette and any other substance labeled as not safe for or intended for human consumption;

(~~g~~h) Public place shall mean any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(~~h~~i) Smoke shall mean the gases, particles or vapors released into the atmosphere as a result of combustion, electrical ignition or vaporization of or by any prohibited substance;

(~~i~~j) Smoking shall mean inhaling or exhaling smoke from any instrumentality, including but not limited to any cigar, cigarette, pipe, hookah pipe or an operating electronic cigarette, or having in possession any such instrumentality producing smoke or engaging in any act that generates smoke;

(~~j~~k) Tobacco related products shall mean any product containing, made or derived from tobacco that is intended for human consumption, or any component, part, or accessory of a tobacco product, including but not limited to tobacco found in cigars and cigarettes, tobacco intended to be used in pipes or cigarettes, chewing tobacco, moist or dry snuff, dissolvable tobacco products and electronic cigarettes and any other product containing, made or derived from tobacco that is intended or expected to be consumed with or without being combusted but does not include any tobacco product that has been approved by the United States food and drug

administration for sale as a tobacco cessation product, tobacco dependent product or for other medical purposes and is marketed and sold only for those purposes.

Section 2. That Section 28-72 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 28-72. Smoking outdoors--near medical facilities.

(a) Medical facility means any medical hospital, medical or dental clinic;

(b) Public place means any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(c) Smoke or smoking means the use or possession of a lighted cigar, cigarette, electronic cigarette, pipe, tobacco smoking device or any other lighted smoking equipment;

(d) No person shall smoke in any public place within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation;

(e) The prohibition of (d), above, does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:


Attorney

CCREQ/ATTY JWC:cjh 8/15/2013

STATEMENT OF PURPOSE: Article VII of Chapter 28 of the Duluth City Code, 1959, as amended, addresses smoking in public places within the city of Duluth. This ordinance amends Sections 28-63 and 28-72 to additionally regulate the use of electronic cigarettes in public places.