

ORDINANCE NO. 2019-1449

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 11 (OFFENSES) AND CHAPTER 1, ARTICLE 1-8 (PENALTY) OF THE GOODYEAR CITY CODE RELATED TO VAPING REGULATIONS, RESTRICTIONS, AND PENALTIES; AND PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES AND CODES, CORRECTIONS, SEVERABILITY AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona believe that it is in the best interest of the city to amend various sections of the Goodyear City Code to regulate vaping; and

WHEREAS, the amendments to Chapters 11 (Offenses) and Article 1-8 (Penalty) of the Goodyear City Code will expand the current smoking regulations to include vaping, will further limit smoking and vaping in Goodyear by:

1. Prohibiting smoking and vaping in parks and on trails;
2. Prohibiting the sale of smoking and vaping materials to persons under the age of 21; and
3. Prohibiting smoking and vaping at schools and school related events.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. FINDINGS: (SUPPORTED BY INFORMATION PROVIDED IN THE COUNCIL ACTION REPORT)

1. Tobacco use causes death and disease and continues to be an urgent public health threat.
2. The use of e-cigarettes is unsafe for kids, teens, and young adults and can interfere with memory and attention processing.
3. Electronic smoking device aerosol may be considered a health hazard.
4. Smokeless tobacco is not a safe alternative to smoking.
5. Secondhand smoke has been repeatedly identified as a health hazard.
6. Smoking tobacco (or any plant) is a positive danger to the health and a material annoyance, inconvenience, discomfort and health hazard to those who are present in confined spaces.
7. Second hand smoke concentrations in outdoor areas can reach similar levels as those found indoors.

8. Laws restricting the use of tobacco products have recognizable benefits to public health and medical costs.

SECTION 2. AMENDMENT OF GOODYEAR CITY CODE CHAPTER 11 (OFFENSES)

The Goodyear City Code is hereby amended as set forth in that certain document titled, "Amendment to Goodyear City Code, Chapter 11 (Offenses) And Chapter 1, Article 1-8 (Penalty) Related To Vaping Regulations, Restrictions, and Penalties dated September 2019," which document was declared a public record by Resolution No. 2019-1994, three copies of which are on file with the City Clerk of the City of Goodyear and which are referred to, adopted and made part hereof as if fully set forth in the Ordinance.

SECTION 3. AMENDMENT OF GOODYEAR CITY CODE CHAPTER 1, ARTICLE 1-8(C) (PENALTY)

The Goodyear City Code Chapter 1, Article 1-8 Subsection 1-8-1(C) is hereby amended to add the violation classification of "petty offenses," to read as follows:

1-8-1(C) Notwithstanding any provisions to the contrary in this code providing for enforcement of violations of this code as misdemeanors OR PETTY OFFENSES, violations of any provision of this code and violations of any proscription, requirement or duty set forth in any ordinance incorporated into this code or any other ordinance of the city are declared to be civil code violations which may be adjudicated and enforced by the city court pursuant to Chapter 18 of this code, as an additional enforcement alternative to other remedies provided in this section or remedies and procedures provided for specifically in this code or other ordinance. Use of this civil code enforcement alternative is not mandatory and shall be at the discretion of the city official undertaking enforcement action on an alleged violation of this code or other ordinance.

SECTION 4. PENALTY SECTIONS

SECTION 11-1-17

The penalty for violating the requirements of Goodyear City Code Section 11-1-17 Smoking and Vaping Prohibited in City Enclosed Facilities and Vehicles shall be as follows:

(D) Any person found guilty of violating the requirements of this section, shall be guilty of a petty offense and shall be punishable by a fine of \$50 plus surcharges for each violation of this section.

SECTIONS 11-1-18, 11-1-35 AND 11-1-37

The penalty for violating the requirements of Goodyear City Code Sections 11-1-18 Public Non-Smoking, 11-1-35 Regulation of Smoking and Vaping in City

Parks and Trails, and 11-1-37 Smoking and Vaping Prohibited at Schools and School Related Events, shall be as follows:

Enforcement and penalties. Any person found guilty of violating the requirements of this section shall be guilty of a petty offense, punishable by:

- (a) A fine not exceeding \$100 plus surcharges for a first violation in any 24-month period;
- (b) A fine not exceeding \$200 plus surcharges for a second violation in any 24-month period;
- (c) A fine not exceeding \$300 plus surcharges for a third violation in any 24-month period;
- (d) Any person who violates any provision of this section four or more times in any 24-month period may be charged with and found guilty of a class 1 misdemeanor.

SECTION 11-1-36

The penalty for violating the requirements of Goodyear City Code Section 11-1-36 Sale of Tobacco Products or Smoking Devices Prohibited to Persons Under the age of Twenty-one (21) shall be as follows:

(E) Enforcement and Penalties - Individual. Any individual found guilty of violating the requirements of this section shall be guilty of a misdemeanor, punishable by:

- (1) A fine of \$500 plus surcharges for a first violation in any 24-month period;
- (2) A fine of \$1,000 plus surcharges for a second violation in any 24-month period;
- (3) A fine of \$2,500 plus surcharges for a third or more violations in any 24-month period.

(F) Enforcement and Penalties – Enterprise, Any enterprise found guilty of violating the requirements of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$20,000 as further provided for in Section 1-8-1 PENALTY, of this code.

SECTION 5. REPEAL OF CONFLICTING ORDINANCES OR CODE

All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed upon the effective date of this ordinance.

SECTION 6. CORRECTIONS

The City Attorney, City Clerk, the codifiers of the ordinance and their respective designees are authorized to make necessary clerical corrections to this ordinance, including but not limited to, the correction of scrivener's/clerical errors, references, numbers, sections/subsection numbers and any references thereto.

SECTION 7. SEVERABILITY

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 8. EFFECTIVE DATE

In order to preserve the peace, health, safety and welfare of the citizens of Goodyear, Arizona, an emergency is declared to exist. Therefore, this ordinance is enacted as an emergency measure and shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 2019-1449 is a true, correct and accurate copy of Ordinance No. 2019-1449, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk