

**CITY OF RUSHFORD**  
**CLEAN INDOOR AIR ORDINANCE**

THE CITY COUNCIL OF THE CITY OF RUSHFORD DOES HEREBY ORDAIN:

**Section I. General Provisions.**

**A. Title.** The title of this Ordinance shall be the City of Rushford Clean Indoor Air Ordinance.

**B. Purpose and Findings.**

**Whereas**, smoke from commercial tobacco is a leading cause of disease in nonsmokers and a major source of indoor air pollution. There is no safe level of exposure to commercial tobacco smoke. Secondhand smoke causes heart disease, lung cancer, respiratory infections, decreased respiratory function, low birth-weight or pre-term deliveries, and other health problems. Neither the separation of smokers and nonsmokers, nor the introduction of new ventilation systems, can eliminate the health hazards caused by secondhand smoke; and

**Whereas**, electronic delivery devices, more commonly referred to as electronic cigarettes or e-cigarettes, closely resemble and purposefully mimic the act of smoking as users inhale aerosolized liquid nicotine and other substances heated by an electronic ignition system. Their use in workplaces and public places where smoking is prohibited creates concern and confusion and leads to difficulties in enforcing smoking prohibitions; and

**Whereas**, scientific research has shown negative health effects related to secondhand exposure to e-cigarette aerosol. In 2014, the American Society for Heating, Refrigeration, and Air Conditioning Engineering published a risk assessment of electronic delivery devices and concluded that “e-cigarettes emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking.” They can contain nicotine and detectable levels of known carcinogens and toxic chemicals, like nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. In December 2016, the Surgeon General released a comprehensive review of the public health impact of e-cigarettes on U.S. youth and young adults, finding, in part, that the nicotine contained in e-cigarettes can cause addiction and can harm the developing adolescent brain. In Minnesota, a 2017 Youth Tobacco Survey by the Minnesota Department of Health revealed that 46.2% of non-smoking youth had been exposed to secondhand smoke over the past 7 days; and

**Whereas**, restricting smoking in places of work and public places can help to reduce youth exposure to secondhand smoke and model smoke-free behavior; and

**Whereas**, the only way to completely protect workers and the public from the health threats of secondhand emissions from electronic cigarettes and other tobacco products is to create 100% smoke-free workplaces and public places.

**Whereas**, Minnesota home rule and charter cities have the power to adopt ordinances that are more stringent than Minnesota's Clean Indoor Air Act to protect individuals from secondhand smoke under Minn. Stat. §§ 144.414, subd. 5(b); and 144.417, subd. 4.

**Accordingly**, the City of Rushford City Council finds and declares that the purpose of this Ordinance is to: (1) protect the health, safety and welfare of the people of the City of Rushford from the adverse effects of secondhand smoke and aerosol and (2) affirm that the right to breathe clean air has priority over allowing people to smoke or use electronic delivery devices.

**C. Authority and Jurisdiction.**

Pursuant to Minn. Stat. §§ 144.414, subd. 5(b); and 144.417, subd. 4, this Ordinance shall apply throughout the City of Rushford.

**Section II. Definitions.**

**A. "City Facilities"** means all enclosed areas, including buildings and vehicles, owned, leased, or operated by the City of Rushford; all outdoor property adjacent to such buildings and under the control of the City, including lawns, courtyards, and green space; and other areas open to the public for recreational purposes under control of the City, such as fairgrounds athletic fields, beaches, gardens, parks, plazas, skate parks, swimming pools, trails, and outdoor picnic areas. City facilities do not include streets and sidewalks used only as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this section or other law.

**B. "Electronic Delivery Device"** means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately.

**C. "Indoor Area"** means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether opened or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes a retractable divider, garage door, or other physical barrier, whether temporary or permanent. A standard (0.011) gauge window screen with an 18 by 16 mesh count is not considered a wall.

**D. "Minnesota Clean Indoor Air Act"** means Minn. Stat. §§ 144.411-417, as it may be amended from time to time.

**E. "Place of Employment"** means any indoor area where one or more individuals perform any type of service for consideration of payment under any type of contractual relationship, including but not limited to an employment relationship with or for a private corporation, partnership, individual, or government office. This term includes any location where one or more individuals gratuitously perform services for which individuals are ordinarily paid.

**F. "Proprietor or Person in Charge"** means the person or entity that ultimately controls, governs or directs the activities within the public place, place of employment, or city facility regardless of whether the person or entity is owner or lessee of the public place, place of employment, or city facility. The term may apply to a corporation as well as an individual.

**G. "Public Place"** means any indoor area used by the general public, including, but not limited to, restaurants, bars, any other food or liquor establishment, retail stores and other commercial establishments, schools and other educational facilities, hospitals, nursing homes, auditoriums, arenas, meeting rooms, and common areas of rental apartment and condominium buildings.

**H. "Smoke" or "Smoking"** means the inhaling, exhaling, burning or carrying of any lighted or heated cigar, cigarette, pipe or any other lighted or heated product, whether natural or synthetic, containing, made, or derived from nicotine, tobacco or other plant, that is intended for inhalation. Smoking shall include carrying or using an activated or turned on electronic delivery device.

### **Section III. Smoking Prohibited.**

No person shall smoke:

1. In public places or places of employment;
2. Within 25 feet of entrances, exits, windows and ventilation intakes of public places and places of employment; or,
3. In or on all city facilities.

### **Section IV. Exception for traditional Native American ceremonies.**

Smoking of traditional, non-commercial tobacco by a Native American as part of a traditional Native American spiritual or cultural ceremony is allowed. For purposes of this section, a Native American is a person who is a member of an Indian tribe as defined in Minn. Stat. § 260.755, subd. 12.

### **Section V. Responsibilities of Proprietors and Persons in Charge.**

The proprietor or other person in charge that owns, leases, manages, operates, or otherwise controls the use of a public place, place of employment, or city facility shall make reasonable efforts to prevent smoking by:

1. Posting appropriate signage on or immediately inside of all outside entrances to the public place, place of employment, and city facility. Signs must be placed at an unobscured location, at a height that will be easily seen by persons entering the establishment; and
2. Refusing to serve or service any person acting in violation of this Ordinance.
3. Ensuring that no ashtrays, lighters, matchbooks, smoking papers, pipes (including hookahs), or similar smoking paraphernalia are provided in any area where smoking is prohibited; and
4. Asking any person who smokes in an area where smoking is prohibited to refrain from smoking, and, if the person does not refrain from smoking after being asked to do so, asking the person to leave. If the person refuses to leave, the proprietor shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

**Section VI. Retaliation Prohibited.** No proprietor, or other person or entity in charge of a public place, place of employment, or city facility may retaliate or take adverse action against an employee or other person who, in good faith, reports a violation of this Ordinance.

**Section VII. Complement to the MCIAA.**

This Ordinance is intended to complement and go beyond the Minnesota Clean Indoor Air Act. Nothing in this Ordinance authorizes smoking in any location regulated by any other laws or applicable regulations.

**Section VIII. Violations and Penalties.**

A person of or over the age of twenty-one (21) who violates any provision of this Ordinance shall be guilty of a petty misdemeanor and subject to a fine of up to three hundred dollars (\$300.00) for the first offense. Each violation and every day in which a violation occurs or continues, constitutes a separate offense. A person of or over the age of twenty-one (21) who violates any provision of this Ordinance within one year of a previous violation may be subject to misdemeanor prosecution. Persons under the age of 21 who violate any provision of this Ordinance may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes and diversion programs. The City will consult with local public health, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

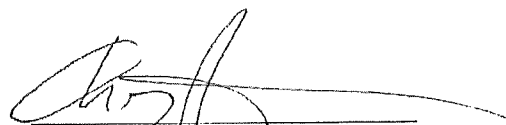
**Subsection IX. Injunctive Relief.**

In addition to the penalties provided in Section VIII, the City Attorney may bring a civil action against a proprietor or other person in charge of a public place, place of employment, or city facility to enjoin repeated or continuing violations of this Ordinance.

**Section X. Severability.** If any portion of this Ordinance, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

**Section XI. Effective Date.** The ordinance shall be effective on the date of its publication, or upon the publication of a summary of the ordinance.

Adopted by the Rushford City Council this 12<sup>th</sup> day of November, 2019.

  
Mayor Chris Hallum

Attest:

  
Kathy Zacher, City Clerk/Treas.

Publish 11-21-19