

ORDINANCE 2019- 19

AN ORDINANCE AMENDING TITLE 8 (HEALTH AND SAFETY) CHAPTER 8.40 (SMOKING MATERIALS) SECTION 8.40.010 (DEFINITIONS) AND SECTION 8.40.020 (PROHIBITED SALES, DELIVERY, AND SIGNAGE); AND TITLE 8 (HEALTH AND SAFETY) CHAPTER 8.44 (SMOKE FREE ILLINOIS ACT ADOPTED) SECTION 8.44.010 (ADOPTION BY REFERENCE) OF THE STREATOR MUNICIPAL CODE OF ORDINANCES RELATIVE TO ELECTRONIC CIGARETTES AND ALTERNATIVE NICOTINE PRODUCTS AND RAISING THE LEGAL AGE TO PURCHASE OR POSSESS TOBACCO PRODUCTS FROM EIGHTEEN (18) TO TWENTY-ONE (21)

Recitals

1. The Mayor and City Council of the City of Streator desire to make certain amendments to the regulations of the Streator Municipal Code of Ordinances, relative to smoking and tobacco regulations (the “Code Amendments”) to allow for the regulation of the use, sale and purchasing of electronic cigarettes and alternative nicotine products.
2. The Mayor and City Council of the City of Streator make the following findings in regard to the Code Amendments:
 - A. The United States Food and Drug Administration has warned about the possible adverse health effects brought about by the use of electronic cigarettes (“e-cigarettes”) and other alternative nicotine products, as they have been found to contain carcinogens and toxic chemicals such as diethylene glycol, an ingredient used in antifreeze, and has further warned that the health effects of e-cigarettes, including any potential negative health effects of second-hand smoke inhalation, are unknown at this time.
 - B. The use of alternative nicotine products, e-cigarettes and similar devices should be restricted within the City in the same manner as the use of pipes, cigars or cigarettes containing tobacco.
 - C. Pursuant to Section 65 of the Smoke Free Illinois Act, 410 ILCS 82/65 (the “Act”), any home rule unit of local government or any non-home rule municipality may regulate smoking in public places so long as that regulation is no less restrictive than the Act.
 - D. The regulations set forth in the Code Amendments are regulations that are not less restrictive than those regulations contained in the Act.
 - E. The Code Amendments are intended to enhance the protection of the health, safety, and welfare of the City’s residents, property owners, business owners and the public.
3. On April 7, 2019, Illinois Governor J.B. Pritzker signed legislation raising the legal age to purchase tobacco products in the State of Illinois from eighteen (18) to twenty-one (21), which takes effect on July 1, 2019.
4. In order to comply with the legal requirements of the State of Illinois, the Mayor and City Council of the City of Streator desire to make certain amendments to the Streator Municipal Code of Ordinances,

relative to smoking and tobacco regulations to increase the minimum age to purchase or be in possession of tobacco products from eighteen (18) to twenty-one (21) (the "Code Amendments").

5. Pursuant to the authority granted to municipalities by the applicable provisions of the Illinois Municipal Code (65 ILCS 5/1-2, 5/11-1, 5/11-20 and 5/11-42), the Illinois Clean Indoor Air Act, 410 ILCS 80/1 *et seq.*, the Smoke Free Illinois Act (410 ILCS 82/1 *et seq.*) and Article VII, Section 7 of the Illinois Constitution of 1970, the Mayor and City Council of the City of Streator find that the below Code Amendments are in the best interests of the City, its residents, property owners, business owners, and the public and approve the Code Amendments as set forth below.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STREATOR, COUNTIES OF LASALLE AND LIVINGSTON, STATE OF ILLINOIS AS FOLLOWS:

Section 1: Title 8 ("Health and Safety") Chapter 8.40 ("Smoking Materials") Section 8.40.010 ("Definitions") of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in ***bold italics font***):

8.40.010 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Alternative Nicotine Products" means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means and includes, but is not limited to, e-cigarettes. Alternative nicotine product excludes cigarettes, smokeless tobacco, or other tobacco products as these terms are defined in Section 1 of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act (720 ILCS 675/1 et seq.) and any product approved by the United States Food and Drug Administration as a non-tobacco product 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 that approved purpose.

"E-Cigarette" means a device, usually battery-powered, that heats nicotine, releasing a nicotine vapor that can be inhaled by the user of the device. Not by way of limitation, the term "e-cigarette" includes e-cigar, e-cigarillo, e-pipe, e-hookah, or any other device that heats nicotine, releasing a nicotine vapor that can be inhaled by the user of the device.

"Minor" means a person who has not yet attained the age of ~~eighteen (18)~~ ***twenty-one (21)*** years.

"Person" means any individual, firm, partnership, corporation, company, association, joint venture or any employee or agent thereof.

"Rolling paper" means any paper product customarily used to insert loose tobacco, and, by rolling, make into a cigarette.

"Smoking materials" means any substance containing either smoking herbs or tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, loose tobacco, snuff, chewing or dipping tobacco, and also including railing paper, matches and lighters. ***The term "Smoking materials" also includes***

“Alternative Nicotine Products” and “E-Cigarette” even if certain alternative nicotine products and e-cigarettes do not contain any tobacco.

“Vending machine” means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses smoking materials.

Section 2: Title 8 (“Health and Safety”) Chapter 8.40 (“Smoking Materials”) Section 8.40.020 (“Prohibited sales, delivery, and signage”) of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in ***bold italics font***):

8.40.020 - Prohibited sales, delivery, and signage.

- A. It is unlawful for any person to sell, offer for sale, give away, or deliver smoking materials to any minor.
- B. If any person contemplating the sale or furnishing of smoking materials believes or has reason to believe that a sale or delivery of smoking materials is prohibited because of the minority of the prospective recipient, he or she shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his or her official duties.
- C. Warning Signs. Every person engaged in the business of selling smoking materials shall at all times display signs informing the public of the age restrictions provided in this section. The sign shall be posted by every person engaged in the business of selling smoking materials at or near every display of smoking materials and on or upon, every vending machine which offers smoking materials for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF SMOKING MATERIALS TO PERSONS UNDER ~~EIGHTEEN~~ ***TWENTY-ONE*** YEARS OF AGE IS PROHIBITED BY LAW.

The text of such signs shall be in stark contrast to the background color of the sign and such lettering shall be at least one inch high.

Section 3: Title 8 (“Health and Safety”) Chapter 8.44 (“Smoke Free Illinois Act Adopted”) Section 8.44.010 (“Adoption by Reference”) of the Streator Municipal Code is hereby amended to read in its entirety as follows (deletions are shown in ~~strikeout font~~ and additions are shown in ***bold italics font***):

8.44.010 - Adoption by reference.

All definitions, requirements, regulations, prohibitions and provisions of the Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, as amended, are hereby adopted and incorporated in this Chapter 8.44; provided, however, that Sections 40 and 45 are not adopted ***and except to the extent that the City has adopted the following definition of “Smoke” or “Smoking:”***

“Smoke” or “Smoking” means: a) inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form; b) inhaling or exhaling from, turning on, powering, ingesting or utilizing in any form any device intended for the atomization, charring, burning, piezoelectronic ignition of or ingestion of tobacco products or nicotine in any gaseous, smoke, aerosol, vaporous, or other similar form, including but not limited

to the use of any e-cigarette, personal vaporizer used with nicotine or tobacco derivatives, electronic nicotine delivery system, e-puffer, cartomizer or other similar device; c) use of any other device intended for the gaseous, smoke, aerosol, vaporous, or other similar airborne ingestion of tobacco, tobacco derivatives, nicotine, or nicotine derivatives; or, d) completing any of the foregoing actions utilizing any form of smoked, aerosolized, ionized, vaporous, or similar airborne ingestion of marijuana, cannabis, or any derivative thereof. Smoking shall not include non-airborne forms of tobacco, nicotine, or medical cannabis ingestion such as use of chewing tobacco or use of nicotine patches. "Smoke" or "smoking" also does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

This definition of "Smoke" or "Smoking" shall be used in the City's enforcement of the provisions of the Smoke Free Illinois Act, 410 Illinois Compiled Statutes 82/1 et seq., as amended, and the regulations of the Illinois Department of Public Health, as amended, along with any applicable regulations under federal law.

Section 4: Each section, paragraph, sentence, clause, and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance nor any part thereof.

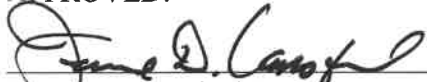
Section 5: This ordinance shall take effect immediately upon its passage and publication in pamphlet form as provided by law and shall be incorporated into the Streator Municipal Code of Ordinances.

Section 6: This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

Section 7: Except as to the amendments heretofore mentioned, all articles, chapters and sections of the Streator Municipal Code of Ordinances shall remain in full force and effect.

Passed by the City Council of the City of Streator, LaSalle and Livingston Counties, Illinois at a regular meeting thereof held on **June 19, 2019**, and approved by me as Mayor on the same day

APPROVED:


 Jimmie D. Lansford, Mayor

ATTESTED:


 Patricia L. Henderson, City Clerk

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Jimmie D. Lansford	√			
Councilwoman Tara Bedei				√
Councilman Ed Brozak	√			
Councilman Brian Crouch	√			
Councilman Joe Scarbeary	√			



Streator Township High School

District #40

202 W. Lincoln Avenue
Streator, Illinois 61364-2102
Phone: 815.672.0545
Fax: 815.673.3637

Item # 2

Dear Mr. Mayor and Council Members

For your consideration, we are requesting assistance in dealing with the current teenage epidemic of the use of vaping devices and electronic cigarettes. This has become extremely popular in schools across America and Streator High School is no exception. We have confiscated dozens of vaping devices and are being told by other students that dozens more are being brought to school on a daily basis.

We would like for you to consider amending the current smoking ordinance to include possession of vaping devices (JUULs, NJOYs, etc.) or alternate nicotine delivery devices. We realize this is not going to control the behavior but it would assist in being a deterrent for students bringing these devices to Streator High School.

We would use the ordinance to help enforce the safety and healthy aspects we try to foster here at Streator High School. It is important to the school administration that all students are not tempted with these devices, especially students who might not normally be inclined to participate in these activities. Most times vaping becomes a communal act where students meet up in the bathroom and share one device.

Thank you for your consideration in helping us deal with this issue. We have enclosed a few ordinances that other cities are currently using. I hope these will help you view how other communities are dealing with this problem. Feel free to contact us at any time and we will answer any questions you have in this matter.

Sincerely,

Beau Doty

Assistant Principal

Streator Township High School

815-672-0545 ext. 523

Sgt. George Krasnican

School Resource Officer

Streator Township High School

815-672-0545 ext. 507

Vision Statement

Streator Township High School prepares its graduates to live and adapt in a changing world by offering a challenging academic and career-ready curriculum with a solid technological foundation and a comprehensive extracurricular program in a safe and effective learning environment.

EEOC