

NOTICE OF ENACTMENT OF ORDINANCE NUMBER 63
St. Louis County Board of Commissioners

ORDINANCE NUMBER 63
SAINT LOUIS COUNTY, MINNESOTA
**Prohibiting Electronic Delivery Devices in Public Places,
Retail Environments and Places of Work**

The St. Louis County Board of Commissioners ordains:

SECTION 1. Title. This Ordinance shall be known and referenced as the St. Louis County Ordinance Number 63 Prohibiting Electronic Delivery Devices in Public Places, Retail Environments and Places of Work.

SECTION II. Purpose and Jurisdiction.

Subsection A. The purpose of this Ordinance is to protect the health, safety and general welfare of the people of St. Louis County from the adverse effects of unregulated electronic delivery devices, commonly referred to as electronic cigarettes, or e-cigarettes, which closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine or other substances created by heat through an electronic ignition system.

E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing smoking prohibitions.

After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. FDA testing also suggested that quality control processes used to manufacture these products are inconsistent or non-existent. (“Summary of results: Laboratory analysis of electronic cigarettes conducted by Food and Drug Administration,” July 22, 2009)

Subsection B. Pursuant to Minnesota Statutes § 145A.05, this Ordinance applies throughout all of St. Louis County, including the municipalities therein.

Subsection C. Nothing in this Ordinance shall prevent other local levels of government within St. Louis County from adopting more restrictive measures to protect citizens from the dangers of electronic cigarettes or other electronic delivery devices.

SECTION III. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this Ordinance, the following definitions shall apply:

Subsection A. “Electronic Delivery Device” means any product containing or delivering nicotine, lobelia, marijuana or any other substance intended for human consumption that can be used by a

person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

Subsection B. “Indoor Area” means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open 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 any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

Subsection C. “Use” means the inhaling or exhaling of vapor from any electronic delivery device. Use shall also mean carrying an electronic delivery device that is turned on or otherwise activated.

SECTION IV. Prohibition

The use of any electronic delivery device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act, Minnesota Statutes §§ 144.414-417 and any amendments that may be made thereto.

SECTION V. Responsibilities of Proprietors

Subsection A. The proprietor or other person, firm, limited liability company, corporation, or other entity that owns, leases, manages, operates or otherwise controls the use of a public place, public transportation, place of employment, or public meeting shall make reasonable efforts to prevent the use of any electronic delivery device in the public place, public transportation, place of employment, or public meeting by:

- (1) posting appropriate signs or by any other means which may be appropriate; and
- (2) asking any person who uses an electronic delivery device in an area where the use of electronic delivery devices is prohibited to refrain from using such device and, if the person does not refrain from using an electronic delivery device after being asked to do so, asking the person to leave. If the person refuses to leave, the proprietor, person or entity in charge shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

Subsection B. The proprietor or other person or entity in charge of a public place, public meeting, public transportation, or place of employment must not provide any equipment that facilitates the use of electronic delivery devices where such use is prohibited. Nothing in this Ordinance shall prohibit the proprietor or other person or entity in charge from taking more stringent measures than those contained in this Ordinance or the Minnesota Clean Indoor Air Act to protect individuals from secondhand smoke or vapor. The proprietor or other person or entity in charge of a restaurant or bar may not serve an individual who is in violation of this Ordinance.

SECTION VI. Smoking in Retail Tobacco Establishments

For purposes of this section, “smoking” shall mean the inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or inhaling or

exhaling vapor from any electronic delivery device. Smoking shall include carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a tobacco retailer license. Smoking for the purposes of sampling tobacco, tobacco products, tobacco-related devices, or electronic delivery devices is prohibited.

SECTION VII. Other Applicable Laws

This Ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statute Sec. 144.411 to 144.417, as amended from time to time. Nothing in this Ordinance authorizes smoking or the use of an electronic delivery device in any location that is restricted by other applicable laws or regulations.

SECTION VIII. Violation and Penalties

Subsection A. Use Where Prohibited. It is a violation of this Ordinance for any person to smoke or use an electronic delivery device in an area where prohibited by this Ordinance, or where prohibited by a private policy established by the proprietor or other person in charge of the area, as authorized by Section VI of this Ordinance.

Subsection B. Proprietors. It is a violation of this Ordinance for the proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area subject to this Ordinance to knowingly fail to comply with these provisions.

Subsection C. Penalties. A person who violates any provision of this Ordinance shall be guilty of a petty misdemeanor. Each day of violation constitutes a separate offense.

SECTION IX. Severability. If any portion of this Ordinance is held unenforceable, then such provision will be modified to reflect the purpose of this Ordinance. All remaining provisions of this Ordinance shall remain in full force and effect.

SECTION X. Effective Date. This Ordinance shall take effect July 1, 2015.

Commissioner Boyle moved the adoption of the Resolution and it was declared adopted upon the following vote during the St. Louis County Board of Commissioners meeting held on Tuesday, May 12, 2015, at 9:30 a.m. in the St. Louis County Courthouse, Duluth, Minnesota:

Yeas – Commissioners Jewell, Boyle, Nelson, Raukar and Chair Stauber – 5

Nays – Commissioners Dahlberg and Rukavina – 2

BY ORDER OF THE BOARD OF COMMISSIONERS
ST. LOUIS COUNTY, MINNESOTA

DONALD DICKLICH, COUNTY AUDITOR

By: Phil Chapman, Clerk of County Board