

**ORDINANCE NO. 4027-A**

**AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES BY AMENDING CHAPTER 38, ENVIRONMENT, ARTICLE IV, SMOKING AND USE OF TOBACCO IN PUBLIC PLACES, SECTION 38-98, DEFINITIONS; REVISING DEFINITION OF VAPOR PRODUCTS; PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:**

**AN AMENDED ORDINANCE**

**Section 1.** Chapter 38, Environment, Article IV, Smoking and Use of Tobacco in Public Places is hereby amended as follows:

**Section 38-98, Definitions**

As used in this article the following terms shall be defined as follows:

*Educational facility* means a building owned, leased or under the control of a public or private school system, college or university.

*Health facility* means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers.

*Indoor workplace* means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to

such indoor workplace at any given time, whether or not work is being performed.

*Meeting* means a meeting as defined in the Oklahoma Open Meeting Act.

*Public body* means a public body as defined in the Oklahoma Open Meeting Act.

*Public park* means all areas of a parcel of land which is owned or leased by the City of Muskogee and used for recreational activities, including parking lots related thereto, walking and bicycle trails, golf courses, ball fields, skate parks and all other fields and facilities to which the general public have been granted the right of access.

*Public place* means any enclosed indoor area where individuals other than employees are invited or permitted.

*Restaurant* means any eating establishment regardless of seating capacity.

*Smoking* means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

*Stand-alone bar, stand-alone tavern and cigar bar* mean an establishment that derives more than 60 percent of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under 21 years of age is admitted, except for members of a musical band employed or hired as provided in 37 O.S. § 537(B)(2) and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.

*Tobacco products* mean any bidis, cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed, and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap, and any other kinds and forms of tobacco suitable for chewing), however prepared; and shall include any other articles or products made of tobacco or any substitute therefor.

*Vapor products* mean any noncombustible shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

**Section 2.** REPEALER. All other ordinances or parts of ordinances not specifically identified which are in direct conflict herewith are repealed only to the extent of the conflict.

**Section 3.** SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.

**Section 4.** EFFECTIVE DATE. This Ordinance shall become effective 30 days after publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS \_\_\_\_\_DAY OF \_\_\_\_\_, 2017.

CITY OF MUSKOGEE

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JOHN R. COBURN, MAYOR

ATTEST:

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TAMMY L. TRACY, CITY CLERK

Approved as to form and legality this \_\_\_\_\_day of \_\_\_\_\_, 2017.

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ROY D. TUCKER, CITY ATTORNEY