

**ORDINANCE 2023-003 OF THE TOWN OF LAWRENCE, WISCONSIN
TO REPEAL AND REPLACE SECTION § 204-15
Use of Cigarette, Tobacco Products or Other Smoking Electronic Delivery Devices
Prohibited and other Tobacco Restrictions.**

Purpose: The purpose of this Ordinance is to amend the current code regarding the use of cigarette, tobacco products or other smoking electronic delivery devices prohibited and other tobacco restrictions.

The Town Board of Supervisors of the Town of Lawrence does ordain as follows:

Section 1: Town of Lawrence Ordinance Section § 204-15 is hereby repealed and replaced to read as follows:

**§ 204-15 Use of Cigarette, Tobacco Products or Other Smoking Electronic Delivery Devices
Prohibited and other Tobacco Restrictions**

204-15.01 Definitions

For the purpose of this section the following words shall have the following meanings:

Cigarette means any roll of tobacco wrapped in paper or any other regulated substance other than tobacco.

Electronic delivery device means any product containing or delivering nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. Electronic delivery device includes any device manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or description, or any component part of such product whether or not sold separately. Electronic delivery device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for such an approved purpose.

Law enforcement officer means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

Smoke or smoking means burning, holding, inhaling, exhaling or carrying any lighted or heated cigar, cigarette, pipe or heated tobacco or plant product intended for inhalation, whether natural, or synthetic, in any manner or form. Smoking includes the use of an electronic delivery device which creates an aerosol or vapor, in any manner or form, or the use of any oral smoking device.

Tobacco products means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but (tobacco products) does not include cigarettes, as defined under Wis. Stats. § 139.30(1).

204-15.02 Prohibited Conduct

No child under the age of 18 may do any of the following:

- (1) Buy or attempt to buy any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device or engage in any conduct prohibited by Wis. Stat. § 254.92.
- (2) Falsely represent his or her age for the purpose of receiving any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device or for the purpose of engaging in any other activity prohibited by Wis. Stat. § 254.92.
- (3) Possess any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device.

An individual who violates subsections 1, 2, and 3 shall be subject to a forfeiture of up to \$100.00 for each violation.

204-15.03 Exceptions

A child may purchase or possess Cigarettes or Tobacco Products or other Smoking or Electronic Delivery Device for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Wis. Stats. § 134.65(1)(d).

A law enforcement officer shall seize any Cigarette or Tobacco Product, or other Smoking or Electronic Delivery Device involved in any violation of subsection 197-12.02 in his or her presence.

204-15.04 Smoking Ban Adopted

The Town adopts, by reference, the provisions of Wis. Stats. § 101.123, smoking prohibited, pertaining to the statewide smoking ban. For purposes of enforcing the smoking ban found in Wis. Stats. § 101.123 within this Town, the definition found in this section for "Smoke" or "Smoking" shall apply instead of the definition for "Smoking" found in said state statutes and the definition found in this section for "Electronic Delivery Device" shall also apply.

204-15.05 Related Provisions

This ordinance further adopts:

- a) Wis. Stat. § 101.123 relating to the prohibition of smoking are hereby adopted and incorporated as if fully set forth herein.
- b) Wis. Stat. § 124.65 – Cigarette and tobacco products retailer license.
- c) Wis. Stat. § 134.66 – Restrictions on sale or gift of cigarettes or nicotine or tobacco products.
- d) Wis. Stat. § 254.76 – Causing fires by tobacco smoking.

e) Wis. Stat. § 254.92 – All other provisions of this statutory subsection not otherwise adopted or encompassed by this ordinance 204-15.

204-15.06 Penalties

Penalties or imposed forfeitures for the above, not otherwise specifically noted, fall under § 1-3 of the Town of Lawrence municipal ordinances.

Section 2: Severability

If any provision of this ordinance is found invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

Section 3: This amendment to existing ordinances shall be effective upon passage and publication as provided by Law.

Dated at Town of Lawrence, Wisconsin on this 11th day of September 2023.

Introduced by: Supervisor Bain
Seconded by: Supervisor Vannieuwenhoven
Vote: 4-ayes, 0-nay

TOWN OF LAWRENCE


Town Chairman, Lanny Tibaldo



Attest:


Town Clerk, Cindy Kocken