

THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: G-19-13

AN ORDINANCE concerning

the use of electronic smoking devices in designated smoke-free areas of City parks

FOR the purpose of adding a certain definition; revising a certain definition; and otherwise pertaining to smoking within specified areas in City parks.

BY repealing and reenacting, with amendments,

Section 6-20

The Code of the City of Frederick, 1966 (as amended)

**BACKGROUND**

On March 15, 2012, the Board of Aldermen enacted Ordinance G-12-06, which added to the Frederick City Code a new Chapter 6, entitled "Parks and Public Property". That chapter included new provisions prohibiting smoking in and around playgrounds and within certain other areas of City parks. As subsequently amended, those provisions are currently codified as Section 6-20 of the Frederick City Code.

The U.S. Surgeon General has issued an advisory warning of the dangers of the use of electronic smoking devices for both user and bystanders. The City of Frederick desires to protect the public health, comfort and environment of residents and users of City parks, especially children, by limiting exposures to environmental smoke and other harmful vapors.

**SECTION I. NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Section 6-20 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

**Sec. 6-20. Smoking.**

(a) **Purpose.** The purpose of this section is to improve and protect the public health, comfort, and environment of residents and other users of City parks, particularly children, by limiting exposure to environmental tobacco smoke and other harmful vapors in and around City playgrounds and certain other recreational areas.

(b) **Definitions.** In this section, the following terms have the meanings indicated.

(1) **Electronic smoking device.** "Electronic smoking device" means an electronic and/or battery operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substance. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

~~[(1)]~~ **(2) Playground.** "Playground" means an area specifically designed to be used by children that has play equipment or a sandbox installed or that is designated by a sign for the use of children. Where the playground area is not contained by a fence, the boundary of the playground is defined as the edge of the surface material, such as rubber or mulch, surrounding the play equipment or other designated play area.

~~[(2)]~~ **(3) Smoke or smoking.** "Smoke" or "smoking" means [the act of smoking or carrying a burning cigar, cigarette, pipe, or other tobacco product of any kind.] to ignite, inhale, exhale, burn, vape, operate, or carry any lighted cigar, cigarette, pipe, hookah, electronic smoking device, tobacco product, or any other combustible substance including marijuana.

- (c) **Smoke-free areas.** The following are hereby designated smoke-free areas:
- (1) any playground within a City park and any point within 10 feet surrounding the playground; and
  - (2) outdoor bleachers and other fixed seating areas located in parks while used by event spectators.
- (d) **Prohibition.** An individual may not smoke within any of the smoke-free areas designated in subsection (c) of this section.
- (e) **Exception.** The prohibition of subsection (d) does not apply to any individual traveling in a motor vehicle.
- (f) **Penalties.** Violation of this section is a municipal infraction punishable by a fine of \$25.
- (g) **Signage.** The Deputy Director may post or cause to be posted signs indicating that smoking in a specified area is prohibited by law. The absence of a sign in a particular location does not obviate the enforcement of this section in that location.
- (h) **Public education.** The Division may institute a program to explain and clarify to the public the purposes and requirements of this section. The program may include the publication of a brochure or a page on the City's website.

**SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION III. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this ordinance shall take effect on the date it is approved by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**

**DATE:**



**Michael C. O'Connor, President,  
Board of Aldermen**

**May 2, 2019**

**APPROVED:**

**DATE:**



**Michael C. O'Connor, Mayor**

**May 2, 2019**

**Approved for Legal Sufficiency:**



**City Attorney**