



AN ORDINANCE: By Public Services and Safety  
Committee  
Re: Amending Code § 11-100, Statewide Smoking  
Ban, to prohibit electronic smoking devices (E-  
Cigs) in the City of Neenah

ORDINANCE NO. 2019-17  
Introduced: August 7, 2019  
Committee/Commission Action:  
**RECOMMENDED FOR PASSAGE**

## AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

**Section 1.** Section 11-100 of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

**Sec. 11-100. - Statewide smoking ban.**

(a) *Smoking ban adopted.* The City hereby adopts, by reference, the provisions of Wis. Stats. § 101.123, smoking prohibited, pertaining to the statewide smoking ban.

(b) *Definitions.* For purposes of enforcing the smoking ban in the City of Neenah, the following definition shall apply instead of the definition found in state statutes:

“Electronic Delivery Device” shall mean any product containing or delivering nicotine, lobelia, 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 aerosol, mist, or vapor from the product. The term includes, but is not limited to, devices manufactured, distributed, marketed, or sold as electronic cigarettes or cigars, electronic pipes, personal vaporizers, electronic nicotine delivery systems, vape pens, or electronic hookahs.

"Enclosed place" shall mean all space between a floor and a ceiling that is bounded by walls, doors, 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. An 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

“Smoking” shall mean burning or holding or inhaling or exhaling smoke, mist, or vapor from any of the following items with the ability to contain tobacco or nicotine products.

- 1) A lighted cigar
- 2) A lighted cigarette
- 3) A lighted pipe
- 4) An electronic delivery device
- 5) Any other lighted smoking equipment

(c) *Inspection and enforcement.* The City Building Inspector and/or Police Department shall have the power to enter any premises subject to the smoking ban under state law to ascertain whether the premises are in compliance with this section and take appropriate enforcement action pursuant to ~~Wis. Stats. § 101.123~~this section.

**Section 2. Severability.** In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

**Section 3. Repeal and Effective Date.** All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Bates/Erickson  
Adopted: 7-1 August 7, 2019  
Approved: August 7, 2019  
Published: August 12, 2019

Approved:



Dean R. Kaufert, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:  
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