

# ORDINANCE

## Board of Ramsey County Commissioners

Presented By: Commissioner Ortega Date: September 22, 2015 No. B2015-302

Attention: Public Health

Page 1 of 6

WHEREAS, The Minnesota Clean Indoor Air Act (MCIAA - Minn. State Sections 144.411 – 144.417) is the State law that describes where smoking is prohibited, outlines responsibilities of employers, manager, and other persons in charge, and lists exemptions; and

WHEREAS, In 2014, the Minnesota Legislature amended the MCIAA to restrict the use of electronic cigarettes in certain places and also include use of electronic cigarettes within the definition of smoking for certain types of facilities; and

WHEREAS, The MCIAA does not prohibit political subdivisions from adopting more stringent prohibitions on the use of electronic cigarettes or electronic delivery devices; and

WHEREAS, There have been a number of changes in the products available to smokers, including e-cigarette products, which deliver nicotine in a vapor, usually with various flavorings; and

WHEREAS, Studies and surveys at the national and state level have found that, while use of tobacco products by middle and high school age youth has leveled or declined, the use of e-cigarettes by that population has substantially increased; and

WHEREAS, Scientific research has shown some adverse health effects associated with the vapor from e-cigarettes, and there is not clear evidence that the use of e-cigarettes is beneficial as a smoking cessation tool; and

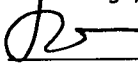
WHEREAS, Regulation of e-cigarettes can reduce confusion in establishments in which smoking is prohibited; and

WHEREAS, The Saint Paul – Ramsey County Community Health Services Advisory Committee, which advises and assists the Ramsey County Board with its public health responsibilities, has recommended that the Ramsey County Board of Commissioners adopt an ordinance to restrict the use of e-cigarettes; and

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

Jim McDonough, Chair

By:   
Janet Guthire  
Acting Chief Clerk – County Board

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Page 2 of 6

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WHEREAS, Section 5.02 of the Ramsey County Home Rule Charter requires that every proposed ordinance and amendment receive two full readings: the first at the time the amendment is presented and the second at the time of the public hearing; and

WHEREAS, Section 5.02 of the Ramsey County Home Rule Charter further provides that the full reading may be waived if a copy of the ordinance or amendment is supplied to each member of the County Board prior to its introduction; and

WHEREAS, On August 4, 2015 the Ramsey County Board of commissioners waived the first reading of the proposed Ramsey County Clean Indoor Air Ordinance; and

WHEREAS, On September 8, 2015 the Ramsey County Board of commissioners waived the second reading of the proposed Ramsey County Clean Indoor Air Ordinance;

NOW THEREFORE BE IT ORDAINED, The Ramsey County Board of Commissioners hereby approves the Ramsey County Clean Indoor Air Ordinance:

**1.00** This ordinance shall be known as the "Ramsey County Clean Indoor Air Ordinance"

**2.00 Purpose and Authority**


**2.01** It is the purpose and intent of this Ordinance to protect the health, safety, and general welfare of the people of Ramsey County. The principal objectives of this Ordinance are:

- A. To protect the health, safety and welfare of the people of Ramsey County from the adverse effects of secondhand smoke by better ensuring their ability to breathe air that is uncontaminated by secondhand smoke and vapor produced by electronic delivery devices (more commonly known as e-cigarettes); and
- B. To affirm that the right to breathe has priority over allowing people to smoke or use electronic delivery devices.; and

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

Jim McDonough, Chair

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Page 3 of 6

- =====
- C. To prevent secondhand smoke and vapor exposure and its adverse health effects on employees, patrons, and the general public while in public indoor areas and places of employment; and
  - D. To protect, in particular, the health of vulnerable populations including children, the elderly, and those with chronic health conditions; and
  - E. To maintain consistency in enforcement of clean air in public indoor areas, and in the use of products that simulate combustible tobacco products.

**2.02** This Ordinance is adopted pursuant to powers granted under Minnesota Statutes Sections 144.414, subd. 5(b), 144.417, subd. 4(a), and Chapters 145A and 375, and subsequent recodifications and/or amendments, the Home Rule Charter for Ramsey County, and other applicable legislation, as may be adopted from time to time.

### 3.00 Jurisdiction

**3.01** This ordinance applies throughout all of Ramsey County.

**3.02** Nothing in this ordinance shall prevent other local levels of government, within Ramsey County, from adopting more restrictive measures to protect citizens from second-hand smoke.

**3.03** Nothing in this ordinance authorizes smoking in any location where smoking is restricted by other applicable laws.

### 4.00 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 chapter, the following definitions shall apply.


**4.01 "Department"** means Saint Paul-Ramsey County Public Health.

**4.02 "Electronic delivery device"** means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that

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	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

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Attention: Public Health

Page 4 of 6

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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 includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

**4.03** “Minnesota Clean Indoor Air Act” means Minnesota Statutes Sections 144.411 to 144.417, as amended from time to time.

**4.04** “Smoking” shall mean 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, an activity which is commonly known as “vaping”. Smoking shall include possessing or carrying a lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco product or plant product intended for inhalation.

**4.05** “Use.” 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.

### **5.00 Prohibition**


**5.01** The use of any electronic delivery device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act.

**5.02** Except as provided in Section 5.03, to ensure that tobacco smoke or vapor from electronic delivery devices does not enter public places and places of employment and that persons entering such places are not exposed involuntarily to tobacco smoke or vapor from electronic delivery devices, smoking and the use of electronic delivery devices are prohibited within twenty-five (25) feet of entrances, exits, open windows and ventilation intakes of public places and places of work. This prohibition does not apply to entrances and exits that are

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Toni Carter	X		
Blake Huffman	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

Jim McDonough, Chair

By:   
Janet Guthrie  
Acting Chief Clerk – County Board

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Page 5 of 6

=====

used solely in the event of an emergency and are appropriately signed for that purpose.

**5.03 Exceptions:** The prohibitions in this section do not apply to the following places or situations:

- A. The proprietor of an outdoor dining area or outdoor bar area of a restaurant may designate for smoking outdoor seating capacity of the restaurant provided this location is appropriately signed as a smoking area, and the area is not immediately adjacent to a building entrance.
- B. Situations where members of the public that are passing through on an outdoor street, alley, or sidewalk where smoking is prohibited by this Ordinance while en route to another location.

### 6.00 Enforcement

**6.01 Petty Misdemeanor.** Any person who violates this ordinance, or who shall permit such a violation to exist on the premises under their control, or who shall fail to take action to abate the existence of the violation within the specified time period when ordered or notified to do so, shall be guilty of a petty misdemeanor, and upon conviction thereof shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

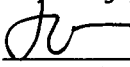
**6.02 Equitable Relief.** In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.

**6.03 Penalties.** Failure to comply with this ordinance shall be a basis for adverse action under Minnesota Statutes, section 340A.415.

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	YEA	NAY	OTHER
Toni Carter	X		
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Mary Jo McGuire	X		
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Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

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Attention: Public Health

Page 6 of 6

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- 6.04 Citations.** Whenever any representative of the Department, or any other person authorized to issue citations for the violation of law, discovers a violation of this ordinance, a citation may be issued to the person alleged to have committed the violation. The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.
- 7.00 Severability and Savings Clause.** If any portion of this ordinance, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.
- 8.00 Previous Ordinance:** Upon the Effective Date of this Ordinance, The Ramsey County Smoke Free Restaurant Ordinance, 2004-342, adopted September 14, 2004, effective March 31, 2005, is repealed.
- 9.00 Effective Date:** This Ordinance shall be effective upon passage by the County Board and its publication in accordance with law.

### Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Mary Jo McGuire	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman		X	
Jim McDonough	X		

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