

**ORDINANCE NO. 2022-04**

**AN ORDINANCE AMENDING CHAPTER 4, "OFFENSES AGAINST THE HEALTH, WELFARE AND MORALS," OF THE CODE OF ORDINANCES OF THE TOWN OF LUTHER, OKLAHOMA, AND SPECIFICALLY AMENDING SECTION 10-423, "REGULATION OF SMOKING AND USE OF TOBACCO AND VAPOR PRODUCTS" BY BRINGING THE PROVISIONS FOR DEFINITIONS, PROHIBITED CONDUCT, REQUIRED SIGNS, AND PENALTIES AND ENFORCEMENT, INTO COMPLIANCE WITH STATE STATUTE; REPEALING SECTIONS 10-425, 10-426, 10-427, 10-428, AND 10-429 OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LUTHER, OKLAHOMA THAT:**

**SECTION I:** Section 10-423 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby added to read as follows:

A. Definitions. The following words and phrases, whenever used in this [article / chapter], shall have the meanings defined in this section unless the context clearly requires otherwise:

1. Indoor Area means any enclosed area used or visited by employees or the public, at all times, regardless of whether work is being performed. Indoor Area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, as well as 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.

2. Municipal Property means all buildings, Indoor Areas, and Outdoor Areas, including but not limited to recreational areas, and other property, or portions thereof, owned or operated by the Town, including but not limited to vehicles and equipment owned by the municipality.

3. Outdoor Area means any area that is not an Indoor Area, and includes outdoor recreational areas.

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

5. Tobacco Product means any product that contains tobacco and is intended for human consumption. Tobacco Product does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product.

6. Vapor Product means any noncombustible product, that may or may not contain nicotine, that employs 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

Product 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 and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

**B. Prohibited Conduct**

1. No person is allowed to Smoke Tobacco Products in any places in which Smoking Tobacco Products is prohibited by Oklahoma state law. (63 Okl.St.Ann. § 1-1523 (2019))
2. No person is allowed to Smoke or use Vapor Products on any Municipal Property, Indoor and Outdoor, including parks and recreational areas.
3. Property owners may prohibit Smoking, the use of Tobacco Products or Vapor Products on their property, even if the use of Tobacco Products or Vapor Products is not otherwise prohibited in that area.
4. No person or entity shall knowingly permit Smoking or the use of Tobacco Products or Vapor Products in an area that is under their control, if the use of Tobacco Products or Vapor Products is prohibited by law in that area.
5. No person or entity shall permit the placement of ash receptacles, such as ash trays or ash cans, within an area under the control of that person or entity and in which Smoking is prohibited by law. However, the presence of ash receptacles shall not be a defense to a charge of the use of Tobacco Products or Vapor Products in violation of any provision of this ordinance.
6. No person shall dispose of Smoking, Tobacco Product, or Vapor Product waste within an area in which Smoking and the use of Tobacco Products or Vapor Products is prohibited.
7. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this ordinance.

**C. Required Signs.**

1. Products in violation of any other provision of this ordinance. The person or entity that has legal or de facto control of an area in which Smoking and the use of Tobacco Products or Vapor Products is prohibited by this ordinance shall post a clear, conspicuous, and unambiguous sign at each point of entry to the area, and in prominent locations within the area.
2. For restrictions on Smoking and the use of Vapor Products in Indoor Areas, the sign or decal shall be at least 4 inches by 2 inches in size and shall clearly state that smoking or vapor product use is prohibited or that a smoke/vapor-free environment is provided. For restrictions on Smoking or Vapor Products in Outdoor Areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size, with lettering of at least 1 inch, and shall clearly state that smoking or vapor product use is prohibited.

3. For purposes of this section, the City Manager or his/her designee shall be responsible for the posting of signs on Municipal Property, both indoor and outdoor.

4. Notwithstanding this provision, the presence or absence of signs shall not be a defense to a charge of Smoking or the use of Tobacco Products or Vapor

**D. Penalties and Enforcement**

1. Enforcement of this chapter shall be the responsibility of the Luther Police Department and the Town of Luther. In addition, any peace officer or code enforcement official may enforce this chapter.

2. Any person who knowingly violates this ordinance shall be punished by a citation and fine of not less than \$10 and not more than \$100.

3. The possession of a lighted Tobacco Product is a nuisance.

4. The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity.

5. Each instance of Tobacco Product or Vapor Product use in violation of this ordinance shall constitute a separate violation.

6. The use of a Vapor Product in violation is a nuisance.

7. Causing, aiding, abetting, or concealing a violation of any provision of this ordinance regarding Tobacco Product or Vapor Product use shall also constitute a violation of this ordinance.

8. In addition to other remedies provided by this ordinance or by other law, any violation of this ordinance regarding Tobacco Product or Vapor Product use may be remedied by the Town Prosecutor, Municipal Judge, including, but not limited to, administrative or judicial nuisance abatement proceedings, criminal code enforcement proceedings, and suits for injunctive relief.

**SECTION II.** If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

**SECTION III.** All ordinances in conflict herewith are hereby repealed.

**PASSED AND APPROVED** this 8th day of March, 2022.

  
WILLIAM TERRY ARPS

ATTEST:

Scherrie Pilcock  
TOWN CLERK



Approved as to form and legality:

Beth Anne Childs  
Town Attorney