

ORDINANCE NO. 864

AN ORDINANCE PROHIBITING SMOKING WITHIN TOWN PARKS; REPEALING ORDINANCE NO. 553; PROVIDING PENALTIES FOR A VIOLATION HEREOF; AND DECLARING AN EMERGENCY.

WHEREAS, Electronic Smoking Devices (ESDs) are relatively new products which are increasing in use and popularity while their health impacts remain unknown; and

WHEREAS, approximately 80 percent of adult Oregonians do not smoke and approximately 90 percent of adult Oregonians believe that people should be protected from secondhand smoke; and

WHEREAS, the Town wishes to prohibit smoking, vaping, and the use of ESDs within the Town parks and open space.

WHEREAS, the Town has Ordinance No. 553 that does not cover ESDs and also addresses offenses prohibited by ORS 167.808.

NOW THEREFORE, THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

SECTION 1: DEFINITIONS.

The following definitions apply in this chapter.

1. “Electronic Smoking Device” (or “ESD”) means any electronic product that delivers nicotine or any other substance to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory of such a product, whether or not sold separately.
2. “Park” means:
 - a. Any land owned or leased by the Town of Lakeview and designated as a park by the Town Council;
 - b. Any Town owned or managed parks and recreational facilities; and
 - c. All public parks, trails, open space, and special use areas, such as sport fields, basketball courts, tennis courts, and swimming pools, including spectator areas and bleachers.”

3. "Smoke" and "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, weed, plant or other tobacco-smoke product or substance in any manner or in any form. "Smoke" and "Smoking" also includes the use of an Electronic Smoking Device which creates aerosol, in any manner or in an any form. A lighted smoking instrument includes an activated or "switched on" ESD.

SECTION 2: PROHIBITED CONDUCT.

1. A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument in a place of employment, in an enclosed area open to the public, on any sidewalk or on any public or private property within 20 feet of a sidewalk adjacent to any park, in any park; or in the public parking lot at the N. 2nd and E Street known as the Town Parking Lot.
2. A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument within 20 feet of the following parts of places of employment or enclosed areas open to the public:
 - a. Entrances;
 - b. Exits;
 - c. Windows that open;
 - d. Ventilation intakes that serve an enclosed area; and
 - e. Outdoor dining areas.

SECTION 3: PENALTY.

- a. The first violation of this Ordinance is a Class C Civil Infraction.
- b. The second violation of this Ordinance is a Class B Civil Infraction.
- c. The third and each subsequent violation thereafter of this Ordinance is a Class A Civil Infraction.

Each day that a violation remains uncured is a separate infraction.

SECTION 4: REPEAL OF ORDINANCE 553.

Upon the effective date of this Ordinance all of the terms and provisions of Town Ordinance No. 553 are hereby repealed and replaced.

Offenses Against General Welfare and Animals

ORS 167.808

Unlawful possession of inhalants

(1) For the purposes of this section:

(a) "Inhalant" means any glue, cement or other substance that is capable of causing intoxication and that contains one or more of the following chemical compounds:

- (A) Acetone;
- (B) Amyl acetate;
- (C) Benzol or benzene;
- (D) Butane;
- (E) Butyl acetate;
- (F) Butyl alcohol;
- (G) Carbon tetrachloride;
- (H) Chloroform;
- (I) Cyclohexanone;
- (J) Difluoroethane;
- (K) Ethanol or ethyl alcohol;
- (L) Ethyl acetate;
- (M) Hexane;
- (N) Isopropanol or isopropyl alcohol;
- (O) Isopropyl acetate;
- (P) Methyl cellosolve acetate;
- (Q) Methyl ethyl ketone;
- (R) Methyl isobutyl ketone;
- (S) Nitrous oxide;
- (T) Toluol or toluene;
- (U) Trichloroethylene;
- (V) Tricresyl phosphate;

(W) Xylol or xylene; or

(X) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes.

(b) "Intoxication" means any mental or physical impairment or incapacity.

(2) It is unlawful for a person to possess any inhalant if the person intends to use the inhalant for the purpose of inducing intoxication in the person who possesses the inhalant or for the purpose of inducing intoxication in any other person.

(3) A person may not use any inhalant for the purpose of inducing intoxication in the person using the inhalant or for the purpose of inducing intoxication in any other person.

(4) The prohibitions of this section do not apply to any substance that:

(a) Has been prescribed by a health practitioner, as described in ORS 31.740 (When award of punitive damages against health practitioner prohibited), and that is used in the manner prescribed by the health practitioner; or

(b) Is administered or used under the supervision of a health practitioner, as described in ORS 31.740 (When award of punitive damages against health practitioner prohibited).

(5) **(a)** Any person who violates this section commits a violation. Violation of this section is a Class C violation. In addition to or in lieu of a fine, a juvenile court may require that a minor who engages in conduct prohibited by this section be provided with treatment and counseling.

(b) Notwithstanding paragraph **(a)** of this subsection, a second or subsequent violation of this section by a person is a Class B misdemeanor. If a juvenile court finds that a minor has engaged in conduct prohibited by this section on a second or subsequent occasion, the court shall require that the minor receive treatment and counseling. [1999 c.229 §1; 1999 c.1051 §322f; 2011 c.597 §81]

Note: 167.808 (Unlawful possession of inhalants) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Location: https://oregon.public.law/statutes/ors_167.808

Original Source: Section 167.808 — *Unlawful possession of inhalants*, https://www.oregonlegislature.gov/bills_laws/ors/ors167.html (last accessed Jun. 26, 2021).

SECTION 5: EMERGENCY CLAUSE AND EFFECTIVE DATE:

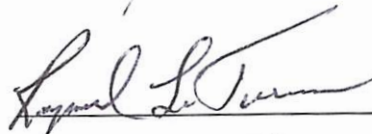
This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on the date it is passed.

This Ordinance was read by title only and no Council member requested that the Ordinance be read in full and thereafter was adopted by the following vote:

Passed by the Town Council by a vote as follows:

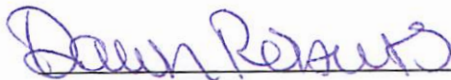
 5 In Favor
 0 Opposed

Adopted this 19 day of December, 2017.



Raymond Turner, Mayor

Attest:



Dawn Turner, Town Recorder