

ORDINANCE NO. 1019-2

AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, AMENDING SECTION 35.30 OF THE LINDSAY, TEXAS CODE OF ORDINANCES TO INCLUDE ELECTRONIC SMOKING DEVICES AND OTHER ORAL SMOKING DEVICES IN THE DEFINITION OF SMOKE OR SMOKING; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lindsay, Texas, is a Type A general law municipality located in Cooke County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of Lindsay previously adopted section 35.30 of the Lindsay, Texas Code of Ordinances setting the definition of smoke or smoking; and

WHEREAS, due to the same public health concerns, the City Council of the City of Lindsay desires to expand the definition of smoke or smoking to include electronic smoking devices and other oral smoking devices; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINDSAY, TEXAS:

SECTION 1.

Section 35.30 of the Lindsay, Texas Code of Ordinances and the definition of smoke or smoking therein is hereby amended to read as follows:

***SMOKE* or *SMOKING*.** Smoke or smoking means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or other lighted or heated tobacco or plant product intended for inhalation whether natural or synthetic in any manner or in any form. Smoke or smoking also includes the use of an electronic smoking device which simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver an aerosol or vapor that may include nicotine in any manner or any form. Smoke or smoking shall also include the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this ordinance.

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Lindsay, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of

such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

All rights and remedies of the City of Lindsay are expressly saved as to any and all violations of the ordinances of the City of Lindsay related to smoking that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.


This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 14 DAY OF October, 2019.



Scott Neu, Mayor

ATTEST:



Monica Laux, City Secretary