

E-Cigarette Attachment

Actions by Local Governments in Illinois to Regulate E-Cigarettes

Cook County¹

- On February 19, 2014, the Cook County Board passed an ordinance amendment that requires e-cigarettes to be sold behind the counter at retailers in secured displays and proof of identification for purchase, which would further restrict sales to minors. The amendment also allows the County Department of Public Health to issue fines to stores that violated the ordinance and bans sales within 500 feet of a school, child care center, or child recreation area.
- The amendment is similar to the state law, Senate Bill 1756, effective as of January 1, 2014. It only applies to unincorporated areas in Cook County.

Evanston²

- In October 2013, Evanston City Council passed an ordinance which prohibits e-cigarette use in public spaces and workplaces. Amendments to include e-cigarettes in the definitions of the Evanston Clean Air Act and changes to the city code's definition of tobacco products to include e-cigarettes were made.
- The ordinance prohibits sales to minors, requires \$500 annual licensing fee to sell products, restricts sale within 150 feet of schools, and charges penalty fees and potential license renovation for violations. Use is prohibited in areas that are smoke-free and near building entrances (within 25 feet). Products are banned from self-service display racks, for sale, display or giving away. Tobacco and liquid nicotine products are banned for sale via vending machines except in non-public places, and are banned from free distribution by a licensee or person in the business at any right of way, park, playground, other city owned property, or any school district, park district or public library. The sale or giving of e-cigarettes is prohibited to any person, regardless of age.

Chicago³

- The City of Chicago passed regulations in January 2014 that ban the use of electronic cigarettes from indoor public places and within 15 feet from building entrances. It also requires retailers to sell e-cigarettes behind the counter. The ordinance applies to Chicago's Clear Indoor Air Ordinance, which regulates smoking restrictions. The ban takes effect April 29, 2014.

Lincolnwood⁴

- On February 2014, Lincolnwood enacted a ban on smoking cigarettes and e-cigarettes in public parks and bikeways. The ban is intended to be enforced during public events and festivals.

Huntley⁵

- Huntley is considering a proposed ordinance that would clarify Illinois Senate Bill 1756 on underage e-cigarette sales, which did not include clear provisions on possession by minors. The ordinance would penalize underage possession, allowing minors to be charged up to \$500 in fines if caught. The village currently has similar penalties for minors caught with regular tobacco products.

Other Regulations

- According to one website site: Some of the 40 nearby local municipalities that have ordinances banning smoking in parks, playgrounds and beaches include Buffalo Grove⁶, Chicago, Evanston, Northbrook, Highland Park, Skokie, Wilmette, Park Ridge, Deerfield, Lake Forest, Libertyville, Palatine, Mount Prospect⁷, Bolingbrook⁸
- School districts, universities, public transportation (CTA), airports, businesses, etc. have banned the use of e-cigarettes within their property.

Other Local Government Actions and Policies Outside of Illinois⁹

Richardson, Texas¹⁰

- In November 2013, Richardson's Comprehensive Zoning Ordinance was amended to include definitions on electronic cigarettes and requires businesses selling electronic cigarettes to apply for a special use permit. Electronic cigarette special use permits are only allowed in certain districts - primarily retail or commercial districts. This allows City Council to review each business on a case by case basis.

San Francisco, California¹¹

- Effective in April, electronic cigarettes will be considered under the same smoking laws as traditional tobacco products and requires a tobacco permit for the sale or furnishing.

Concord City, California¹²

- In September 2011, the City enacted an ordinance that requires 100% smoke free area for the 17 block downtown business district. This includes banning the use of e-cigarettes. The ordinance refers to smoke-free signage and violations in the form of a misdemeanor. Property owners could request exemption for certain physical conditions. The staff report includes an analysis of other local ordinances

Other Helpful Resources

- City of Hayward, California Staff Report, Available at hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2013/PCA13PDF/pca112113full.pdf
 - Extensive staff report with information on topic and to amend zoning ordinance to regulate electronic cigarettes.
- ChangeLabSolutions, "Electronic Cigarettes: How They Are – and Could Be – Regulated."
 - Provides an additional list of municipalities that have passed laws on electronic cigarettes.
 - *Limiting Use and Exposure:* Just as they may regulate the use of cigarettes and other tobacco products, state and local governments may pass their own laws to regulate where e-cigarettes can be used to protect the public from exposure to secondhand e-cigarette vapors. Prohibit use in public buildings, schools, workplaces, entryways, bus stops, recreational areas, public events, multi-unit housing complexes. Can be done through amending the definitions of *smoke* and *smoking* in local smoke free laws to include e-cigarettes and e-cigarette vapor...or through amending or creating new laws specifically to limit where e-cigarettes may be used. List includes:
 - Savannah, GA (Code of Ordinances div. II, § 9-3017 (2010))
 - Bardstown, KY (Code of Ordinances tit. XI, ch. 123 (2010))
 - Glasgow, KY (Code of Ordinances § 38.01 (2010))
 - Tacoma, WA (Tacoma-Pierce County, Wash. Env'tl. Health Code Ch. 9 § 9 (2011))
 - *Restricting Sales:* Just as they may regulate the sale of traditional cigarettes and tobacco products, state and local governments may pass their own laws to regulate how e-cigarettes can be sold. State and local governments may pass laws that: prohibit the sale of e-cigarettes entirely within their jurisdiction; prohibit the sale of e-cigarettes to minors; prohibit the sale of flavored e-cigarette cartridges; or require retailers to obtain a license to sell e-cigarettes. List includes mainly states, but includes:
 - City of Spokane, WA (Mun. Code §§ 10.08.500-.590 (2011))
 - Spokane Valley, WA (Mun. Code §§ 7.40.010-.090 (2011))
 - Tacoma, WA (King County, Wash. Board of Health Code § 19.12.060 (2010))

- Global Advisors Smokefree Policy. 2014. *Electronic Smoking Devices*. September 25. Available at njgasp.org/E-Cigs_White_Paper.pdf
 - White paper looks at current laws and policies in the US, as well as internationally. Contains links to dozens of laws, ordinances, and studies of e-cigarettes.
 - Communities with local ordinances addressing e-cigarettes listed in this paper include Concord City and Petaluma, CA; Savannah and Chatham County, GA; Chicago and Evanston, IL; Bardstown, Bullitt and Madison Counties, and Glasgow, KY; Ashland, Boston, Canton, Great Barrington, North Adams, North Attleboro, Saugus, Somerset, and South Hadley, MA; Duluth, MN; Bergen County, NJ; New York City, Cattaraugus County, Suffolk County, NY; San Marcos, TX; and Clark, King, Spokane, and Tacoma-Pierce counties, Washington.
- State Laws on E-Cigarettes: ncsl.org/research/health/alternative-nicotine-products-e-cigarettes.aspx
- U.S. State and Local Laws Regulating Use of Electronic Cigarettes, American Nonsmokers' Rights Foundation. Available at no-smoke.org/pdf/ecigslaws.pdf
- DiBenedetto, S. (2014, Jan. 25). "Regulations Increasing for Electronic Cigarette." Northwest Herald. Available at nwherald.com/2014/01/24/regulations-increasing-for-electronic-cigarettes/aly4x8k/
- "Electronic Cigarette Restrictions In Illinois Communities." Independent Electronic Cigarette Press. Available at indypress.org/news-press/electronic-cigarette-restrictions-in-illinois-communities.html

In general, restrictions have used different approaches and focus on specific issues. Local governments and municipalities have pass ordinances that:

- Prohibit the use of e-cigarettes in public places, workplaces, indoor or outdoor locations
- Restrict access to minors through restricting sales, requiring identification, requiring products be placed behind counters, etc
- Enable fines for retailers or minors in possession of e-cigarettes
- Require businesses selling e-cigarette products to obtain (tobacco) licenses
- Amend city codes or zoning codes to require business to be evaluated through special use permits within specific districts
- Amend smoke free policies or local Clean Air Acts

¹ Cook County:

- Slodysko, B. (2014, Feb. 19). County passes measure to fine stores that sell e-cigarettes to minors. Chicago Sun-Times. Available at suntimes.com/news/metro/25702267-418/county-passes-measure-to-fine-stores-that-sell-e-cigarettes-to-minors.html
- Hendrickson, M. (2014, Feb. 19). Commissioner Tobolski celebrates ban on E-cigarettes to minor. Available at mysuburbanlife.com/2014/02/19/commissioner-tobolski-celebrates-ban-on-e-cigarettes-to-minors/ar7411m/
- Hernandez, A. (2014, Feb. 23). Cook County board moves e-cigarettes behind the counter. The Bugle. Available at buglenewspapers.com/niles/article_45e53c1a-9cd9-11e3-ac84-001a4bcf6878.html

² Evanston

- City of Evanston Ordinance 80-O-13, Amending Title 3, Chapter 14 “Cigarettes and Tobacco Products” to add Restrictions for Use of Electronic Cigarettes and Liquid Nicotine. Available at cityofevanston.org/assets/80-O-13%20Amendments%20to%20Clean%20Air%20Act_%20E%20Cigarettes.pdf
- BeMiller, H. (2013, Nov. 1). Evanston Restricts Use, Sale of E-Cigarettes. NBC Chicago. Available at nbcchicago.com/news/health/Evanston-Restricts-Use-Of-E-Cigarettes-230220691.html

³ Chicago

- City of Chicago, Mayor’s Press Office. (2014, Jan. 15). Council Approves Ordinance to Regulate E-Cigarettes as Tobacco Products. Available at cityofchicago.org/city/en/depts/cdph/provdrs/boh/news/2014/jan/city-council-approves-ordinance-to-regulate-e-cigarettes-as-toba.html
- Byrne, J. (2014, Jan. 15). Chicago bans indoor electronic cigarette smoking. Chicago Tribune. Available at chicagotribune.com/news/politics/clout/chi-chicago-bans-indoor-electronic-cigarette-smoking-20140115,0,3192054.story
- Ill.: New Chicago Ordinance Bans Smoking of E-Cigarettes Indoors. Society for Human Resource Management. Available at <http://www.shrm.org/LegalIssues/StateandLocalResources/Pages/Ill-New-Chicago-Ordinance-Bans-Smoking-E-Cigarettes-Indoors.aspx>

⁴ Lincolnwood

- Hayes, N. (2014, Feb. 20). Lincolnwood trustees ban smoking in public parks. Lincolnwood Review. Available at lincolnwood.suntimes.com/news/government/ban-LWR-02272014:article

⁵ Huntley

- Di Benedetto, S. (2014, Feb. 6). Huntley moves to penalize minors for electronic cigarette possession. Northwest Herald. Available at nwherald.com/2014/02/06/huntley-moves-to-penalize-minors-for-electronic-cigarette-possession/aq2gd9i/
- Draft of ordinance at <http://www.huntley.il.us/gov/documents/02.06.14COWPacket.pdf>

⁶ “Bolingbrook Trustees: Tobacco Laws Apply to E-Cigarettes, Too.” Available at <http://bolingbrook.patch.com/groups/politics-and-elections/p/bolingbrook-trustees-tobacco-laws-apply-to-ecigarettes-too>

⁷ “Mount Prospect bans e-cigarettes for minors.” Available at <http://www.dailyherald.com/article/20140210/news/140219963/>

⁸ Ordinance (14-015) not yet posted, but agenda is available:

http://www.bolingbrook.com/images/pdf/executive/AgendaNMinutes/VB_Agenda3-11-14.pdf

⁹ Examples of local ordinances from: Global Advisors Smokefree Policy. 2014. *Electronic Smoking Devices*. September 25. Available at njgasp.org/E-Cigs_White_Paper.pdf

¹⁰ Recent staff report on a special use permit request by a business:

cor.net/modules/showdocument.aspx?documentid=9217;

Staff Report on electronic cigarette amendments: cor.net/modules/showdocument.aspx?documentid=7848;

Chiquillo, Julieta. 2013. “Richardson City Staff Proposes Regulations for E-Cigarette Businesses.” *The Dallas Morning News*.

October 14. Available at richardsonblog.dallasnews.com/2013/10/richardson-city-staff-proposes-amending-code-to-regulate-e-cigarette-businesses.html/;

¹¹ O’Connor, L. (2014, March 19). San Francisco Is The Latest City To Restrict E-Cigarettes Under Anti-Smoking Laws. Huffington Post.

huffingtonpost.com/2014/03/19/e-cigarettes-ban-san-francisco_n_4995546.html; Related Staff Report: http://ci-ssf-ca.granicus.com/MetaViewer.php?meta_id=53262&view=&showpdf=1

¹² Staff report on ordinance: <http://www.ci.concord.ca.us/pdf/citygov/agendas/council/2011/0927/4A.pdf>