

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING THE USE OF E-CIGARETTES ON COUNTY PROPERTY.

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-121, a county may by ordinance regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-169, a county may issue orders and adopt by ordinance or resolution regulations regarding the use of any county property.; and

WHEREAS, the Board of Commissioners has determined that the use of e-cigarettes is harmful to one's health and wishes to prohibit the usage e-cigarettes on County owned property.

NOW THEREFORE, BE IT ORDAINED BY THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. Chapter 50, of the Buncombe County Code of Ordinances is amended to read as follows by adding the following section:

"50-1.1 Use of E-Cigarettes

- (a) Authority. This section is enacted pursuant to authority granted the provisions of G.S. 153A-121 as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of individuals in county buildings, on county grounds, or in local vehicles and G.S. 153A-169, care and use of county property; sites of county buildings.
- (b) Definitions. E-cigarette. Any electronic oral device that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
- (c) E-Cigarettes prohibited.
 - 1. The use of e-cigarettes is prohibited in any vehicle or building owned, occupied or leased to the County where the use of tobacco products is prohibited or within 50 feet of any public entrance to such building.
 - 2. Implementation Requirements.

- a. The person in charge of the County buildings, and vehicles shall post signs indicating that use of E-Cigarettes are restricted.
 - b. The person in charge of the County buildings and vehicles or his or her designee, shall direct a person who is using an e-cigarette, in a prohibited area to cease and, if the person does not comply, shall have authority to issue a civil citation.
- (d) Civil citation. Violations of the e-cigarette prohibition are subject to a civil citation of \$100.00 per offense. The penalty may be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within 20 days after being cited. Violations of this article shall result in civil penalties and not entail criminal sanctions.”

Section 2. Chapter 3, Article V, Section 13 of the Buncombe County Personnel Ordinance is deleted in its entirety and replaced with the following language:

“Section 13. A Tobacco Product Policy

- A. No person shall use any tobacco product, including but not limited to: snuff, chewing tobacco, smokeless tobacco, e-cigarette or vaping tool, smoking, carrying or possessing a lighted cigar, cigarette, pipe or other lighted smoking equipment/paraphernalia while in any Buncombe County buildings, on Buncombe County grounds, or in Buncombe County vehicles.
- B. Should a County employee violate the tobacco ban, they shall be subject to disciplinary action up to and including dismissal.”

Section 3. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 4. Should any provision of this ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 5. This ordinance shall take effect and be in force from and after the date of its adoption.

ADOPTED the 18th day of February, 2020.

ATTEST

**BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE**

LAMAR JOYNER, CLERK

BY: _____
BROWNIE NEWMAN, CHAIRMAN

APPROVED AS TO FORM

COUNTY ATTORNEY