

ORDINANCE NO. 618 N.S.

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF TOLLESON, ARIZONA, AMENDING THE CODE OF TOLLESON, ARIZONA, BY AMENDING CHAPTER 2 ADMINISTRATION BY ADDING A NEW ARTICLE 2-10 REGULATION OF SMOKING AND USE OF TOBACCO PRODUCTS AT OR NEAR CITY FACILITIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING AUTHORIZATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND SETTING AN EFFECTIVE DATE OF JULY 1, 2025.

WHEREAS, the Smoke-free Arizona Act (A.R.S. § 36-601.01) (the “Act”) permits political subdivisions of the state to adopt ordinances or regulations that are more restrictive than as provided by the Act; and

WHEREAS, the Act does not define “tobacco products” and also uses the term “lighted” when referring to tobacco products. Therefore, the Act does not directly regulate use of smoke-free tobacco or e-cigarettes; and

WHEREAS, the Maricopa County Department of Public Health, in conjunction with the Arizona State University Southwest Interdisciplinary Research Center conducted a study in 2014, which made the following findings:

- Secondhand smoke concentrations in outdoor areas can reach similar levels as those found indoors.
- Tobacco litter makes up more than one-third of all visible litter and 25-50% of all litter collected from streets and roadways and can cost cities between \$0.5 million and \$6.5 million dollars.
- More than 9 in 10 Arizonans agree that secondhand smoke is harmful.

WHEREAS, research demonstrates that, even at a possible distance of up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels; and

WHEREAS, there is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health, especially in children causing ear infections, more frequent and severe asthma attacks, respiratory symptoms (e.g., coughing, sneezing, shortness of breath), respiratory infections (i.e., bronchitis, pneumonia) and a greater risk for sudden infant death syndrome (SIDS); and

WHEREAS, cigarettes and secondhand smoke contain more than 7,000 chemicals, including 69 known or suspected carcinogens such as formaldehyde, benzene, and polycyclic aromatic hydrocarbons, which can damage DNA and lead to mutations that promote cancer; and

WHEREAS, tobacco litter is the most common form of litter, and cigarette butts can take up to ten years to decompose; and

WHEREAS, the chemicals from discarded cigarette butts pollute the land, lakes and waterways and can be ingested by children, animals, fish and birds; and

WHEREAS, the City of Tolleson City Council has determined that smoking or other use of tobacco or any plant is a danger to the health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present; and

WHEREAS, that certain document known as the "The City of Tolleson Regulation of Smoking and Tobacco Products At or Near City Facilities," of which at least three (3) paper copies or one (1) paper copy and one (1) electronic copy are on file with the City Clerk for the City of Tolleson in compliance with A.R.S. § 9-802, as amended, is hereby declared a public record and at all times shall be kept available for public use and inspection; and

WHEREAS, the Mayor and Council find that it is in the best interest of the City of Tolleson to prohibit smoking in and near City facilities in a continued effort to protect the public health and welfare; and

WHEREAS, to maintain and serve the public health and safety of City personnel and persons visiting City facilities and to ensure that these valuable resources can be enjoyed by all Tolleson residents and visitors alike, the purpose of this ordinance is to restrict the smoking or other use of tobacco or any plant in and near City facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TOLLESON, ARIZONA, as follows:

Section 1. The above recitals are hereby incorporated as if fully set forth herein.

Section 2. The City of Tolleson City Code is hereby amended by amending Chapter 2 Administration by adding a new Article 2-10 Regulation of Smoking and Use of Tobacco Products At or Near City Facilities for the regulating of smoking and use of tobacco products at or near City facilities, to read as set forth in that certain document entitled, "The City of Tolleson Regulation of Smoking and Tobacco Products At or Near City Facilities," which document is hereby adopted and incorporated by reference as set forth in Exhibit A.

Section 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. Severability.

If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Authorization.

The Mayor, City Manager, City Clerk and City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

Section 6. Providing for Severability.

If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. Providing for Penalties.

Any person violating any of the provisions of this chapter shall be liable for the imposition of a civil sanction not to exceed twenty-five dollars (\$25.00) for the first offense and not to exceed fifty dollars (\$50.00) for each successive offense. Each day a violation of this chapter continues after a citation for the violation has been issued constitutes a separate violation.

PASSED AND ADOPTED by the Mayor and Council of the City of Tolleson, Arizona this 8th day of April, 2025.

Juan F. Rodriguez, Mayor

ATTEST:

Crystal Zamora, City Clerk

APPROVED AS TO FORM: _____

Justin Pierce, City Attorney

CITY OF TOLLESON ORDINANCE NO. 618 N.S.

APRIL 8, 2025

PAGE 4

EXHIBIT A
TO
ORDINANCE NO. 618 N.S.

[Regulation of Smoking and Use of Tobacco Products At or Near City Facilities]

See following pages.

ARTICLE 2-10: – REGULATION OF SMOKING AND USE OF TOBACCO PRODUCTS AT OR NEAR CITY FACILITIES

§ 2-10-1 – PURPOSE.

Since the smoking or use of tobacco products or any plant is a danger to the health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present or nearby such smoking or use, tobacco litter is the most common form of litter, cigarette butts can take up to ten (10) years to decompose, the chemicals from discarded cigarette butts pollute the land, lakes and waterways and can be ingested by children, animals, fish and birds, and in order to serve the public health, safety and welfare, the declared purpose of this chapter is to restrict smoking and the use of tobacco or any plant products in or near city facilities, city property and city parks.

§ 2-10 – DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter:

CITY FACILITY means any property, structure, vehicle or craft that is owned, leased or operated by the city.

CITY PERSONNEL means any person who is employed by the City, and any volunteer, elected official, appointed official or other person who provides services or time on a paid or volunteer basis to the City.

DESIGNATED SMOKING AREA means any area outdoors, which is outside of any enclosed public place and removed from building entrances and exits. Any designated smoking area must be so situated as to allow nonsmoking individuals to conduct normal activity in a smoke-free environment.

ENCLOSED PLACE means any area closed in by a roof and walls with openings for ingress and egress that is available to and customarily used by City Personnel or the public.

PLACE OF EMPLOYMENT means any enclosed area under the control of the City of Tolleson that is available to and customarily used by city personnel.

PARK means all lands and water acquired by or controlled by the city for park, open space amenity or recreational purposes, including privately or publicly owned lands, the use of which has been granted to and accepted by the city for park, open space amenity, or recreational purposes.

SMOKE, SMOKING OR USE OF TOBACCO PRODUCT means:

- (A) Carrying or placing of a lighted tobacco product or other plant material or substance in one's mouth for the purpose of inhaling and exhaling smoke;
- (B) Placing of a lighted tobacco product or any other lighted tobacco product, smoking equipment in an ashtray or other receptacle, and allowing tobacco product smoke to diffuse in the air;
- (C) Carrying or placing of a lighted tobacco product in one's hands or any appendage or devices and allowing smoke to diffuse in the air; or
- (D) Inhaling or exhaling of smoke or vapor from an electronic device that can be used to deliver nicotine or other substances to a person, including, but not limited to, an electronic or vaping cigarette, equipment, cigar, cigarillo, or pipe; or
- (E) Use of a smokeless Tobacco Product, including dip, snuff, snus or chewing tobacco.

TOBACCO PRODUCT means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product.

WORK AREA means any areas within a place of employment at the city, which share a common ventilation, heating or air conditioning system.

§ 2-10-3– PROHIBITION AND REGULATION OF SMOKING IN CITY FACILITIES.

- (A) All city facilities, parks, enclosed places, places of employment and work areas owned, leased or operated by the city shall be subject to this chapter.
- (B) Smoking or use of tobacco products is prohibited in or within three hundred (300) feet of all city facilities, shared vehicles and enclosed places, places of employment and work areas owned, leased or operated by the city.
- (C) Smoking or use of tobacco products is prohibited in all city parks. The city manager or his designee is hereby delegated the authority to designate smoking areas in city parks.
- (D) The city manager or his designee is hereby delegated the authority to designate smoking areas at special events.

(E) Notwithstanding Paragraphs (D) and (E), the fire chief or his designee may close any designated smoking areas during time periods of high fire danger warnings.

§ 2-10-4 –ENFORCEMENT AND PENALTIES.

(A) Citations may be issued for violation of this chapter.

(B) Any person violating any of the provisions of this chapter shall be liable for the imposition of a civil sanction not to exceed twenty-five dollars (\$25.00) for the first offense and not to exceed fifty dollars (\$50.00) for each successive offense. Each day a violation of this chapter continues after a citation for the violation has been issued constitutes a separate violation.

(C) The city shall allow payment by mail of civil sanctions under this chapter.

(D) By enforcing this chapter, the city undertakes only to promote the general welfare and health of the community. It does not assume, nor does it impose on its officers and employees an obligation for breach of which it is liable in money damages to any person claiming injury from such breach.