

Agenda
Health & Human Services Committee
West Olive Administration Building – Conference Room F
12220 Fillmore Street, West Olive, Michigan 49460
Wednesday, January 8, 2020
9:00 AM

Public Comment:

Consent Items:

1. Approval of the Agenda.
2. Approval of the Proposed Minutes from the [December 11, 2019](#) Health and Human Services Committee meeting.

Action Items:

1. [Election of Committee Vice Chair](#)
Suggested Motion:
To elect _____ as Vice Chairperson of the Health and Human Services Committee for 2020.
2. [Proposed Revisions to County Operations Ordinance to Include Vaping Regulations on or within County Property](#)
Suggested Motion:
To approve and forward to the Board of Commissioners the proposed revisions to Article 4, Section 400.1.1 of the County Operations Ordinance to regulate vaping on or within County property.
3. [Proposed Revisions to Public Health Department's Smoking Regulations to Include Vaping Regulations in Public and Private Worksites and Public Places](#)
Suggested Motion:
To approve and forward to the Board of Commissioners the proposed revisions to the "Ottawa County Regulation Eliminating Smoking in Public and Private Worksites and Public Places, Not Including Bars & Restaurants" to also regulate vaping.

Discussion Items:

1. 2020 Health and Human Services Committee Meeting Schedule – current: second Wednesday of each month at 9 am.
2. Update from Ottawa County Department of Public Health Sexual Health Services, Debbie Price, DrPH, CNM
3. Department Updates

Adjournment

Comments on the day's business are to be limited to three (3) minutes.

HEALTH & HUMAN SERVICES COMMITTEE

Proposed Minutes

DATE: December 11, 2019

TIME: 9:01 a.m.

PLACE: Fillmore Street Complex

PRESENT: Allen Dannenberg, James Holtvluwer, and Doug Zylstra (3)

ABSENT: Kyle Terpstra and Randy Meppelink (2)

STAFF & GUESTS: Al Vanderberg, County Administrator; John Shay, Assistant County Administrator; Rachel Sanchez, Chief Deputy Register; Lisa Stefanovsky, Health Officer; Kendra Spanjer, DHS Director; Lynne Doyle, Community Mental Health Director; Patrick Cisler, Human Services Coordinating Council Executive Director; Dr. Paul Heidel, Medical Director; Lisa Uganski, Ottawa Food Coordinator

SUBJECT: CONSENT ITEMS

HHS 19-029 Motion: To approve the agenda of today as presented.
Moved by: Dannenberg

UNANIMOUS

HHS 19-030 Motion: To approve the minutes from the November 13, 2019 meeting as presented.
Moved by: Dannenberg

UNANIMOUS

SUBJECT: ACTION ITEMS

None

SUBJECT: DISCUSSION ITEMS

1. Ottawa Food Update-Lisa Uganski passed out a flyer with an overview of Ottawa Food local data. They have been around for 9 years now and have collaborations with over 45 different local agencies and individuals. She gave a quick overview of the data and also passed out a sheet on their 2019 initiatives and partnerships. She also went over the different programs they have been involved in. Their goal is to educate on healthy eating and hunger in Ottawa County.
2. Department Updates
 - a. Community Mental Health-Lynne Doyle updated that last week the Director of DHHS presented to the House and Senate a new structure for behavioral health that they are calling SIP. She does not know a lot of the details but she briefly talked about what she does know about the new structure. There are 4 possible categories for CMH in this SIP structure. They are set to roll this out in 2022. It will require the mental health code to change and allow for this. She also

updated that they are still working with Beacon and they are still working with the State on the LRE. She also said that she presented her strategic plan and millage to her Board. Out of that, they hope to see some new positions created. One of the positions is someone who can focus on grants full time. Lynne said that they have missed out on millions of dollars in grant money because they did not have anyone to work on this. She also talked about a couple other positions they need.

- b. Department of Human Services – Kendra Spanjer updated that last month they implemented a new pilot for the Pathways to Potential program. She also said the Healthy Michigan plan still has a roll out date of January 1, 2020. And finally, she said they received their fiscal allocations and she explained some of the positives that have come out of that new budget.
- c. Public Health Department- Dr. Heidel encouraged everyone to get their flu shots and he also gave a TB update.

Lisa Stefanovsky gave an update on food fees and said that they came up with a proposal that she hopes to bring more details about in January. She gave a vaping policy update and said that will also be on the agenda in January. She then updated that Public Health received some additional funds in the essential services fund. She explained how this all worked out.

- d. Human Services Coordinating Council – Patrick Cisler said that they continue to support many collaborative activities in the community. He also gave a quick reminder about the 2020 Census efforts.

The meeting adjourned at 10:08 a.m.



Ottawa County

Corporation Counsel

Douglas W. Van Essen
Ottawa County Corporate Counsel

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January 2, 2020

Confidential—Attorney/Client Privilege

Health & Human Services Committee
Ottawa County Board of Commissioners
12220 Fillmore Street
West Olive, MI 49460

Re: Anti-vaping actions

Dear Committee Members:

As you know, John Shay, Lisa Stefanovsky and I were tasked with reviewing the County's smoking regulations to equate vaping with smoking restrictions. We have completed that task. We have three "legislative" activities for different purposes and hence have reviewed and or modified each:

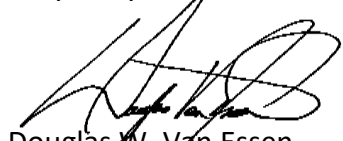
1. The County has an anti-smoking policy for employees that already included e-cigarettes. This is a labor policy with punishment being the typical employment related discipline. We did not change this policy, which precludes employees from smoking and vaping as employees on or using county property.
2. Smoking Ordinance—all persons on county property, except for the parks. The County has an ordinance that restricts smoking on county property by anyone, including employees or constituents, although employees are typically dealt with through the policy. We have modified this Ordinance to including vaping, using a comprehensive definition that Washtenaw County uses.
3. Health Regulation regarding restaurants and certain other retail properties. We did three things to this regulation:
 - A. Added an anti-vaping provision that equates vaping with smoking (as instructed);
 - B. Eased first time enforcement but also enhanced willful enforcement options, including enabling the Sheriff's Department and District Courts to enforce. The idea here is that a first violation by an establishment or person should result in a citation or warning, only, as befits efforts to educate and gain voluntary compliance. A second violation—within one year--should result in a \$100 fine and a third violation in one year, could be a misdemeanor with up to a \$500 fine and 90 days in jail depending on a District Judge's evaluation of the severity of the event.

Why these changes? We eased the first violation to a warning because we suspect the BOC does not want to over-regulate and, therefore, to give everyone an opportunity to conform their behavior to the regulation. We strengthened the enforcement to include penalties where it is clear that the person is thumbing their nose at the regulation. We also think allowing the Sheriff to enforce this regulation enables the Health Department to bring in an armed, uniformed officer in the event of a difficult or dangerous subject, plus gives the Sheriff an additional weapon to deal with difficult groups of individuals who seem oblivious to their neighbors.

- C. We also clarified that a third party can bring a suit to enforce the regulation through a court order. This enables a neighbor who is frustrated with repeated violations to take matters to court directly—not to seek fines or punishment—but to gain compliance to abate a nuisance. Again, this is an effort to gain compliance without being heavy-handed.

As always, I am available to answer any questions that you have regarding this Opinion. It is exempt from disclosure under Section 13g of the Freedom of Information Act because it is subject to the attorney-client privilege. Any discussion of the contents of this letter may be held in executive session pursuant to Section 8(h) of the Open Meetings Act.

Very Truly Yours,



Douglas W. Van Essen
Ottawa County Corporation Counsel

Cc: Ottawa County Board of Commissioners



County of Ottawa

SMOKING AND TOBACCO USE ON COUNTY PROPERTY POLICY

I. POLICY

The County of Ottawa is committed to providing a healthy workplace for our employees and a tobacco-free business environment for the public which uses our services. Smoking and the use of tobacco products is prohibited in all buildings, facilities, and grounds owned, rented, leased or otherwise under the control of Ottawa County, including any county-owned vehicle.

Property and facilities under the jurisdiction of the Ottawa County Parks and Recreation Commission are not subject to this policy.

This policy applies to all employees, visitors, clients or consumers, and independent contractors. State law may supersede the county regulation in certain circumstances.

The County is supportive of tobacco cessation programs and offers assistance to employees in seeking help with their tobacco use through health plan offerings. The County is hopeful that tobacco users will use this regulation as an extra incentive to give up tobacco use and improve their overall health.

II. STATUTORY REFERENCES

Michigan Clean Indoor Act, Public Act 198 of 1986.

Ottawa County Smoke-Free Indoor Air Regulation.

Michigan Public Health Code, Public Act 368 of 1978, as amended.

III. COUNTY LEGISLATIVE OR HISTORICAL REFERENCES

The original Board policy on this subject matter was adopted in December 12, 1989

Board of Commissioners Resolution Number and Policy Adoption Date: B/C 16-110, June 28, 2016

Board of Commissioner Review Date and Resolution Number: B/C 16-093 June 14, 2016

Name and Date of Last Committee Review: Planning and Policy Committee June 2, 2016

Last Review by Internal Policy Review Team: May 3, 2016



County of Ottawa

IV. PROCEDURES

- A. This smoking and tobacco use policy shall be adopted and implemented containing the following requirements:
 1. The smoking policy shall be communicated to all current employees, and at the time of employment of all other employees.
 2. The success of this policy will depend upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All employees, clients and visitors share in the responsibility for adhering to and enforcing the policy. Any concern should be brought to the attention of the individuals responsible for the operation of the County facility in question and/or the supervisor responsible for the work area.
 3. For purposes of this policy, the following definitions apply;
 - a. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe, or other smoking device including e-cigarettes.
 - b. "Tobacco use" means inhaling or chewing a tobacco product or placing a tobacco product within a person's mouth.
 4. Smoking and tobacco use shall be permitted on the campus at Community Mental Health clubhouse facilities in designated areas.
 5. This policy shall be effective January 1, 2013.
- B. Posting of signs:
 1. "No Smoking and Tobacco Use" signs shall be clearly, sufficiently and conspicuously posted at every campus and facility where smoking and tobacco use is prohibited, including entrances.
 2. The Facilities and Maintenance Department is responsible for posting and maintaining the no-smoking signage.

V. REVIEW PERIOD

The Internal Policy Review Team will review this Policy at least once every two years, and will make recommendations for changes to the Planning & Policy Committee.

Action Request



Committee: Health and Human Services Committee

Meeting Date: 01/08/2020

Requesting Department: Public Health Department

Submitted By: John Shay

Agenda Item: Proposed Revisions to County Operations Ordinance to Include Vaping Regulations on or within County Property

Suggested Motion:

To approve and forward to the Board of Commissioners the proposed revisions to Article 4, Section 400.1.1 of the County Operations Ordinance to regulate vaping on or within County property.

Summary of Request:

Article 4, Section 400.1.1 of the current County Operations Ordinance prohibits smoking in all buildings and vehicles owned by the County. The proposed revisions would define "vaping" and prohibit vaping in all buildings and vehicles owned by the County.

Financial Information:

Total Cost: \$0.00	General Fund Cost: \$0.00	Included in Budget:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
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If not included in budget, recommended funding source:


Action is Related to an Activity Which Is: ☐ Mandated ☒ Non-Mandated ☐ New Activity

Action is Related to Strategic Plan:

Goal: Goal 2: To Contribute to the Long-Term Economic, Social and Environmental Health of the County.

Objective: Goal 2, Objective 2: Consider initiatives that contribute to the social health and sustainability of the County and its' residents.

Goal 2, Objective 3: Consider initiatives that contribute to the environmental health and sustainability of the County and its' residents.

Administration: ☒ Recommended ☐ Not Recommended ☐ Without Recommendation
County Administrator: 

Committee/Governing/Advisory Board Approval Date:

Article 4 - County Operations Ordinances

400.1.1 - Smoking ~~and Vaping~~ Regulations on or within County Property

Smoking ~~and Vaping~~ Regulations on or within County Property

1. Purpose: The intent of this Ordinance is to eliminate the health hazards of smoking ~~and vaping~~ to all individuals while working in or using buildings owned or leased by Ottawa County ~~and on all County properties, except for its Parks~~. The adverse health effects of smoking ~~and vapors~~ to ~~themselves smokers~~ and of so-called “secondary” or “passive” smoke ~~and vapor~~ to non-smokers are well documented by the medical community. Such adverse health effects threaten the general health and well-being of individuals ~~and the effects of smoke and vapors in buildings~~, increase health care and insurance costs to the County, and decrease worker attendance and productivity. The general irritation produced by secondary smoke ~~and vapors~~ causes frustration among workers and users of county buildings ~~and property~~ and generally interferes with the quality of life therein ~~and the quality of the experience thereon~~. The smoking ~~and vaping~~ ban established in this Ordinance will eliminate the irritating and adverse effects of smoking ~~and vaping~~ thereby promoting productivity, health, and the quality of life within county buildings ~~and in the outdoor areas of County properties~~, as well as lowering health care and insurance costs ~~and avoiding allergic reactions or pulmonary or eye irritations~~.

2. Definitions:

“Smoking” means inhaling, exhaling, burning or carrying ay lighted cigar, cigarette, pipe, weed, plant or related substance or product.

“Vaping” means any use of an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver through aerosol an inhaled dose of nicotine or other substances.

3. Smoking and Vaping Prohibition: Smoking ~~and~~ ~~isvaping~~ ~~isare~~ prohibited in all buildings and vehicles owned by Ottawa County. ~~As used in this Ordinance, “ownership” shall be defined as any building or vehicle in which Ottawa County has an interest by title or deed.~~ In addition, except for specifically designated areas, all smoking and vaping ~~isare~~ prohibited on all grounds and other real property owned by the County. ~~As used in this Ordinance, “ownership” shall be defined as any building or vehicle in which Ottawa County has an interest by title or deed.~~ Any person smoking ~~or vaping~~ in ~~a~~ County owned building, ~~or~~ Vehicle, ~~or~~ outside a designated smoking and vaping section on a parking lot, grounds, or other outdoor property owned by the County shall be subject to a fine in an amount up to \$250.

2.4. RRResidential Facilities and Jail: The smoking ~~and vaping~~ prohibition in this Ordinance shall apply to all ~~county-county~~-owned residential facilities, including but not limited to the jail, any ~~work-work~~-release facility, and residential group homes. All jail inmates and residents upon their admittance shall be screened to determine whether they smoke ~~or vape~~. All inmates and residents shall be given a copy of this Ordinance and access to a smoking ~~or vaping~~ withdrawal program(s) to be designated by the Sheriff and Ottawa County Board of Commissioners. An inmate or resident who smokes ~~or vapes~~ shall be allowed to smoke ~~or vape~~

Article 4 - County Operations Ordinances

400.1.1 - Smoking ~~and Vaping~~ Regulations on or within County Property

in a designated area only if a physician or psychiatrist certifies in writing that smoking ~~or vaping~~ is a medical necessity for the inmate or resident.

~~3.5.~~ Notice and Posting: ~~Section 3, t~~The smoking ~~and vaping~~ prohibition section of this Ordinance, shall be posted by the Ottawa County Clerk/Register at all public entrances to all buildings owned or leased by Ottawa County ~~and on all grounds and parking areas of such properties.~~ The absence of a posting, however, shall not bar enforcement of this Ordinance.

~~4.6.~~ Severability: The phrases, sentences, sections and provisions of this Ordinance are severable and the finding that any portion hereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance.

~~5.7.~~ Repeal of Conflicting Ordinances: All other ordinances, parts of ordinances, or amendments thereto, any of which are in conflict with the provisions of this Ordinance, are hereby repealed in their entirety to the extent of such conflict.

~~6.8.~~ This Ordinance was approved and adopted by the Ottawa County Board of Commissioners on—~~_____~~, ~~20 December 12, 1989~~, and shall be effective on _____.

History

Enacted: December 12, 1989

Original Ordinance Number: 1989-2

Codified: April 9, 2019

Amended: _____

Effective:

By: _____

Gregory J. DeJong, Chairperson
Board of Commissioners

STATE OF MICHIGAN ~~→~~)

)

COUNTY OF OTTAWA)

I hereby certify that I am the County Clerk/Register of the County of Ottawa, State of Michigan, and that the foregoing is true and complete copy of an ordinance duly adopted by the Board of Commissioners of said County at a regular meeting held on _____, the original of which ordinance is on file in my office. I further certify that notice of said meeting was given in accordance with the provisions of the open meetings act.

Article 4 - County Operations Ordinances

400.1.1 - Smoking and Vaping Regulations on or within County Property

Justin F. Roebuck, County Clerk/Register

Action Request



Committee: Health and Human Services Committee

Meeting Date: 01/08/2020

Requesting Department: Public Health Department

Submitted By: John Shay

Agenda Item: Proposed Revisions to Public Health Department's Smoking Regulations to Include Vaping Regulations in Public and Private Worksites and Public Places

Suggested Motion:

To approve and forward to the Board of Commissioners the proposed revisions to the "Ottawa County Regulation Eliminating Smoking in Public and Private Worksites and Public Places, Not Including Bars & Restaurants" to also regulate vaping.

Summary of Request:

The Public Health Department's current regulations prohibit smoking in all enclosed public and private worksites and public places within Ottawa County with certain exceptions. The proposed revisions to the Public Health Department's regulations would expand the smoking prohibition to include "tobacco products." The definition of "tobacco products" would include any electronic smoking device (e.g. "vaping"). It also provides the ability of the Sheriff's Office to enforce these regulations. It also provides for progressive penalties for those people that violate the regulation.

Financial Information:

Total Cost: \$0.00	General Fund Cost: \$0.00	Included in Budget:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> N/A
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If not included in budget, recommended funding source:

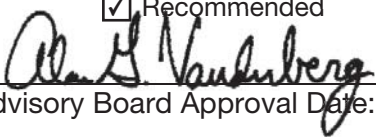
Action is Related to an Activity Which Is: ☐ Mandated ☒ Non-Mandated ☐ New Activity

Action is Related to Strategic Plan:

Goal: Goal 2: To Contribute to the Long-Term Economic, Social and Environmental Health of the County.

Objective: Goal 2, Objective 2: Consider initiatives that contribute to the social health and sustainability of the County and its' residents.

Goal 2, Objective 3: Consider initiatives that contribute to the environmental health and sustainability of the County and its' residents.

Administration: ☒ Recommended ☐ Not Recommended ☐ Without Recommendation
County Administrator: 

Committee/Governing/Advisory Board Approval Date:



**OTTAWA COUNTY REGULATION/ORDINANCE ELIMINATING SMOKING IN
PUBLIC AND PRIVATE WORKSITES AND PUBLIC PLACES, NOT INCLUDING
BARS & RESTAURANTS**

Sec. 1000. Title

This article shall be known as the Ottawa County ~~Smoke-Free~~Clean Indoor Air Regulation.

Sec. 1001. Authority

This regulation is hereby adopted pursuant to authority conferred upon local health departments by the Michigan Public Health Code, 1978 P.A. 368, as amended, MCL §333.333.2441(1) and the Ottawa County Board of Commissioners' power to enact ordinances pursuant to MCL §46.11(j).

Sec. 1002. Jurisdiction and Administration

A. This regulation shall have effect throughout Ottawa County in all areas incorporated and unincorporated, which includes cities, villages, and townships.

B. The Health Officer, with the assistance of the Ottawa County Sheriff if necessary, shall have responsibility for administering and enforcing this regulation, including all amendments hereafter adopted unless otherwise specifically stated.

Sec. 1003. Purpose

A. The Ottawa County Board of Commissioners hereby finds and declares that:

1. The 2006 U.S. Surgeon General's Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to

secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General.

U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.)

2. Numerous studies have found that tobacco [and marijuana](#) smoke are major contributors to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco/[marijuana smoke](#)) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), “Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10,” Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI), August 1999.)

3. The Public Health Service’s National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen. (Environmental Health Information Service (EHIS), “Environmental tobacco smoke: first listed in the Ninth Report on Carcinogens,” U.S. Department of Health and Human Services (DHHS), Public Health Service, NTP, 2000; reaffirmed by the NTP in subsequent reports on carcinogens, 2003, 2005.)

4. Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death. (Appendix II Findings of the Scientific Review Panel: “Findings of the Scientific Review Panel on Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant as adopted at the Panel’s June 24, 2005 Meeting,” California Air Resources Board (ARB), September 12, 2005.)

5. There is no safe level of exposure to secondhand smoke. (Environmental Protection Agency (EPA), “Respiratory health effects of passive smoking: lung cancer and other disorders, the report of the U.S. Environmental Protection Agency. Smoking and Tobacco Control Monograph 4,” Bethesda, MD: National Institutes of Health, National Cancer Institute (NCI); Environmental Protection Agency (EPA), August 1993; California Environmental Protection Agency, “Health Effects of Exposure to Environmental Tobacco Smoke,” 1997; California Air Resources Board, “Proposed identification of environmental tobacco smoke as a toxic air contaminant,” Sacramento: California Environmental Protection Agency (Cal-EPA), Air Resources Board, Stationary Source Division, Air Quality Measures Branch, Office of Environmental Health Hazard Assessment (OEHHA), September 29, 2005.)

6. Inasmuch as there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smoke-free in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), 2005.)

- A. These studies find that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including cancer, heart disease and stroke in nonsmokers. At special risk are infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function, including the young, asthmatics and those with obstructive airway disease. Also harmed are those with health conditions induced by breathing secondhand smoke including asthma, lung cancer, heart disease, respiratory infection, decreased respiratory function, including bronchoconstriction and broncho-spasm.
- B. [Electronic smoking devices are used to deliver an inhaled dose of nicotine or other substances. Existing studies on electronic smoking device aerosol emissions and cartridge contents have found a number of substances known to cause cancer in humans, including formaldehyde, acetaldehyde, lead, nickel and chromium. Inconsistent labeling of specific components and nicotine levels in electronic smoking device products exacerbates this issue. Multiple studies have concluded that exposure after exhalation of aerosol from electronic smoking devices likely results in passive or secondhand and thirdhand exposure to product components.](#)
- C. Accordingly, Ottawa County finds and declares that the purpose of this regulation is to protect the public health and welfare by regulating smoking [and the use of any tobacco products](#) in public places and places of employment and recreation.

Sec. 1004. Definitions

A. The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:

1. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

2. "Business Vehicle" means a car, bus, van or other motorized unit which is owned or leased by an employer for the use of employees.

3. "Convention Hall" means any enclosed area where public or private groups assemble to engage in business or social functions.
4. "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit or business entity.
5. "Employer" means any person, business, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one or more individual persons.
6. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.
7. "Food concession" means a food storage, preparation, or dispensing operation at a state or county fair.
8. "Food Service Establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include: i) a motel that serves continental breakfasts only; ii) a food concession; iii) a bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper; iv) a bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only; or v) a child care organization regulated by Michigan law unless the establishment is carrying out an operation considered by the State of Michigan to be a food service establishment.
9. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."
10. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
11. "Smoke" means the gases, particles, vapors or aerosols released into the air as a result of combustion (to include heating), electrical ignition, vaporization or aerosolization, when the

apparent or usual purpose of the combustion, electrical ignition, vaporization or aerosolization is human inhalation of the byproducts, except when the combusting, vaporizing or aerosolization material contains no tobacco, marijuana, or nicotine and the purpose of inhalation is solely olfactory, such as smoke from incense or scented oil vaporizers. “Smoke” includes, but is not limited to tobacco smoke, electronic smoking device vapors/aerosols, and marijuana smoke.

12. “Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, electronic cigarette, vaping, pipe, weed, plant or related substance or product.

13. “Sports Arena” means sport pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar enclosed areas where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, excluding such facilities, or portions thereof, licensed as a food service establishment.

14. “Tobacco Paraphernalia” means any item designed for the consumption, use, or preparation of any tobacco product.

15. “Tobacco Product” means:

- A. Any product containing, made or derived from marijuana (natural or synthetic), tobacco, or nicotine, that is intended for human consumption, whether smoked, heated, or inhaled including, but not limited to, cigarettes, cigars, cigarillos (miniature cigars), rolled tobacco, pipe tobacco; and
- B. Any electronic smoking device

Notwithstanding any provision of subparagraphs 11 and 14 to the contrary, “tobacco product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco product” does not include any product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

~~14.~~16. “Tobacco Specialty Store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

~~15.~~17. “Worksite” means any enclosed area under the control of a public or private employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a “worksite” unless it is used as a child care, adult day care or health care facility.

Sec. 1005. Prohibition of Smoking in Public and Private Worksites and Public Places

A. Smoking and use of any tobacco products shall be prohibited in all enclosed public and

private worksites and public places within Ottawa County, including, but not limited to, the following places:

1. All enclosed areas of worksites and public places owned, rented, leased or otherwise under the control of Ottawa County, including business vehicles.
2. Restrooms, lobbies, reception areas, hallways and any other common-use areas.
3. Buses, taxicabs, and other means of public transit under the authority of the County of Ottawa, and ticket, boarding, and waiting areas of public transit depots.
4. Business vehicles.
5. Retail stores and service lines.
6. All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, laundromats, hotels and motels.
7. All areas of galleries, libraries and museums.
8. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is part of a stage production.
9. Sports arenas.
10. Convention Halls.
11. Public and private meeting facilities.
12. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of Ottawa County or any political subdivision of the State of Michigan, to the extent such location is subject to the jurisdiction of Ottawa County.
13. Waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
14. Lobbies, hallways, and other common areas in hotels, motels, multiple-tenant office buildings and malls, apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
15. Public places where bingo games are held.

16. Eighty percent (80%) of hotel and motel rooms rented to guests.

B. Notwithstanding any other provision of this regulation, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

Sec. 1006. Prohibition of Smoking in Places of Employment

A. It shall be the responsibility of employers to provide a smoke-free worksite as set forth in this regulation.

B. Upon the effective date of this regulation, each employer having an enclosed place of employment located within Ottawa County shall adopt, implement, make known and maintain a written smoking policy. The policy shall contain, at a minimum, the following wording or requirements: Smoking and use of any tobacco products ~~is~~ are prohibited in all enclosed areas within this worksite without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer owned or leased business vehicles, and all other enclosed facilities.

C. The smoking policy shall be communicated to all current employees at least three (3) weeks prior to its effective date, and at the time of employment of all other employees.

D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

Sec. 1007. Prohibition of Smoking near Entrances, Windows and Ventilation Systems

Smoking and use of any tobacco products shall be prohibited near entrances, operable windows and ventilation systems of all worksites and public places where smoking is prohibited by this regulation. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation shall establish a no smoking area which extends a reasonable distance from any entrances, operable windows and ventilation systems to any enclosed areas where smoking is prohibited; the distance shall be 25 feet or to property edge, whichever is closer, which shall be a distance sufficient to insure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to insure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. All smoking trash receptacles shall be placed outside the no smoking area in order to discourage smoking in these areas.

Sec. 1008. Where Smoking is Not Regulated

A. Notwithstanding any other provision of this regulation to the contrary, the following areas shall not be subject to the smoking restrictions of this regulation.

1. Food Service Establishments.

2. Private residences, except when used as a child care, health care facility or adult day care facility.

3. Tobacco specialty stores.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility described in this section may declare that entire establishment or facility as a nonsmoking establishment.

Sec. 1009. Posting of Signs

A. “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) [or other appropriate signs](#) shall be clearly, sufficiently and conspicuously posted in every building or other area where smoking is prohibited by this regulation. The signage shall be posted by the owner, operator, manager or other person having control of such building or other area.

B. Every public place where smoking is prohibited by this regulation shall have signs conspicuously posted at every entrance clearly stating that smoking is prohibited.

C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this regulation by the owner, operator, manager or other person having control of such area.

Sec. 1010. Enforcement

A. Enforcement of this regulation shall be implemented by the Health Officer, or his or her designee [or any deputized Sheriff of the Ottawa County Sheriff's Department Office](#).

B. Notice of the provisions set forth in this regulation shall be given to all applicants for a business license in Ottawa County.

C. Any citizen who desires to register a complaint under this chapter may initiate enforcement through the Health Officer, or his or her designated staff.

D. The Health Department or the Fire Department shall require, while an establishment is undergoing otherwise mandated inspections, a “self-certification” from the owner, manager, operator or other person having control of such establishment that all requirements of this regulation have been complied with.

E. Any owner, manager, operator or employee of any establishment regulated by this regulation shall inform persons who are violating this regulation of the appropriate provisions thereof.

F. Notwithstanding any other provisions of this regulation, a private citizen may bring legal action to enforce this regulation.

Sec. 1011. Nonretaliation

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this regulation.

Sec. 1012. Violations and Penalties

A. It shall be unlawful for any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation to fail to comply with any of its provisions.

B. It shall be unlawful for any individual to smoke in any area where smoking is prohibited by the provisions of this regulation. Any individual violating this section shall be guilty of an infraction, punishable by either or both of the following:

1. A warning for the first citation.
2. A fine not exceeding one hundred dollars (\$100) for a second violation within one (1) year from a finding of the first violation, provided that adequate time has elapsed between the first and second violation for the alleged violator to have received notice of the first violation.

C. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation and on whose premises a violation of any provision of this regulation occurs shall be guilty of an infraction, punishable by:

1. A warning citation for a first violation.
2. A fine not exceeding one hundred dollars (\$100) for a second violation within one (1) year from a finding of the first violation, provided that adequate time has elapsed between the first and second violation for the alleged violator to have received notice of the first violation.
- ~~3. A fine not exceeding five hundred dollars (\$500) for a third violation of this regulation within one (1) year from a finding of the first violation.~~
- ~~4. A fine not exceeding one thousand dollars (\$1000) for each additional violation of this regulation within one (1) year from a finding of the first violation.~~

D. Within twenty (20) days after receipt of a citation issued under this section, the alleged violator may appeal the citation as provided in Section 2462 of the Michigan Public Health

Code, 1978 P.A. 368, as amended. Further appeals, as provided by statute, may be to the Ottawa County Board of Health, or a committee thereof.

E. Notwithstanding the existence and pursuit of any other remedy, the Health Officer or his/her designee, without posting bond, may maintain an action in a court of competent jurisdiction for an injunction or other process against any persons to restrain or prevent a violation of this regulation.

F. Notwithstanding any other provisions of this regulation, an employee or a private citizen may bring legal action to enforce this regulation.

G. *Appearance Ticket.* If the Health Officer or Ottawa County Sheriff or deputy determines that there is probable cause that this regulation or ordinance has been violated a third time within one (1) year of the first violation, they are authorized to issue and serve an Appearance Ticket upon a person or entity violating this Ordinance. The Appearance Ticket shall direct the recipient to appear in the appropriate District Court within Ottawa County on a specified date to respond to the alleged violation. Such a third violation within one (1) year shall be declared to be a misdemeanor punishable by imprisonment in the County jail for not more than ninety (90) days, or by fine of not more than five hundred dollars (\$500) per occurrence and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court.

F.H. *Civil and Criminal Penalties.* Enforcement of this Ordinance may be accomplished by civil action and/or criminal prosecution, along with any other remedies provided by law. Any conviction and imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of this Ordinance nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance is hereby declared a nuisance *per se*.

Sec. 1013. Public Education

The Ottawa County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this regulation.

Sec. 1014. Other Applicable Laws

This regulation shall not be interpreted or construed to permit smoking or use of any tobacco products where it is otherwise restricted by other applicable laws.

Sec. 1015. Severability

If any provision, clause, sentence or paragraph of this regulation or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this regulation which can be given effect without the invalid provision or

application, and to this end the provisions of this regulation are declared to be severable.

Sec. 1016. Effective Date

A. This regulation shall be effective on ~~January 1, 2008~~[\[insert new effective date\]](#).