



City of Green River  
City Council Meeting  
Agenda Documentation

Preparation Date: 05/31/18	Department: Administration
Meeting Date: 06/05/18	Department Head: Reed Clevenger
	Presenter: Bobby Pineda

**Subject:**

*Consideration to Approve on First Reading an Ordinance Amending Chapter 18 Offenses, Miscellaneous Provisions*

**Background/Alternatives:**

*This Proposed Ordinance is submitted by the Office of the City Prosecutor with consultation and the support of the Chief of Police and the Green River Police Department. They are asking that the council review the proposed ordinance and consider implementing it into the current Code to assist with law enforcement and the prosecution of tobacco offenses as it relates to modern methods including vaporizing pens, electronic cigarettes and solutions containing nicotine.*

**Attachments:**

*Ordinance with Amendments*

**Fiscal Impact:**

*n/a*

**Staff Impact:**

*minimal*

**Legal Review:**

*n/a*

**Suggested Motion:**

*I move to approve on first reading an Ordinance Amending Chapter 18 Offenses, Miscellaneous Provisions Section 18-90 – Unlawful Possession or Use of Tobacco Product by Minors*

Evidence of a controlled substance or residue of a controlled substance in, on or within the device shall be evidence that the device was intended for use of a controlled substance.

- (g) *[Exceptions.]* This section shall not apply to any person who is registered with the Wyoming State Board of Pharmacy and acting within the authority conferred under said registration, or to anyone who is not required to be registered under W.S. 35-7-1024 (LexisNexis 2007).

(Ord. No. 1135, §§ 1—5, 11-3-81; Ord. No. 08-13, § 1, 12-2-08)

**Editor's note**— Ord. No. 1135, §§ 1—5, adopted Nov. 3, 1981, did not expressly amend the Code; therefore, codification as § 18-87 has been at the editor's discretion.

Sec. 18-88. - Smoking prohibited.

- (a) Smoking and/or the use of chewing tobacco is prohibited within all city buildings.
- (b) Smoking and/or the use of chewing tobacco is prohibited in all city vehicles.
- (c) Employees of the city shall be permitted to smoke during their lunch hour and breaks but only in those areas designated by the city administrator as an approved smoking area.
- (d) Smoking is defined to include cigarettes, cigars, and pipes.

(Ord. No. 91-31, § 1, 9-3-91; Ord. No. 91-41, § 1, 12-3-91; Ord. No. 95-7, § 1, 9-19-95; Ord. No. 05-12, § 1, 10-18-05)

Sec. 18-89. - Unlawful use of controlled substance.

Any person who knowingly or intentionally uses or is under the influence of a controlled substance listed in Schedules I, II or III of the Wyoming State Statutes, including amendments thereto, except when administered or prescribed by or under the direction of a licensed practitioner, shall be guilty of a misdemeanor.

Any person who violates this section is guilty of a misdemeanor and shall be fined up to seven hundred fifty dollars (\$750.00), and/or ordered to serve up to six (6) months in jail, and ordered to pay restitution if restitution is deemed appropriate by the trial court.

(Ord. No. 97-9, § 1, 10-21-97)

Sec. 18-90. - Unlawful possession or use of tobacco products by minors.

- (a) It is unlawful for any person under the age of eighteen (18) years to possess, purchase, or use any tobacco products or electronic cigarettes.
- (b) ~~Any person violating this section is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00). Upon conviction for violation of this section, the court may allow the defendant to perform community service and be granted credit against his fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed. No individual shall sell, offer for sale, give away or deliver tobacco products or electronic cigarettes to any person under the age of eighteen (18) years.~~
- (c) No person under the age of eighteen (18) years shall produce tobacco products or electronic cigarettes, or misrepresent his or her identity or age, or use any false or altered identification for the purpose of purchasing tobacco products or electronic cigarettes.

(d) It is an affirmative defense to a prosecution under this section that the defendant possessed or used the tobacco product in the home of, or under the direct supervision of, his parent or guardian.

(e) Definitions:

(1) "Tobacco Products" means any product made or derived from tobacco that contains nicotine, including but not limited to, cigarettes, electronic cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(2) "Electronic Cigarette" means a product that employs any mechanical heating element, battery or electronic circuit regardless of shape or size, that can be used to deliver doses of nicotine vapor by means of heating a liquid nicotine solution, plant, wax, solution or other substance contained in a cartridge or other delivery system, including but not limited to, electronic cigarettes, vaping pens, or vaping mods.

(Ord. No. 98-2, § 1, 4-7-98)

Sec. 18-91. - Overnight camping prohibited.

It shall be unlawful for any person to camp in any city park or on any public property within the city, except:

- (a) In a regularly established and maintained area set aside for camping by the governing body, or
- (b) With the written consent of the city administrator.

(Ord. No. 00-17, § 1, 11-21-00)

Sec. 18-92. - Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

*Business:* any legal entity including, but not limited to, sole proprietorship, partnership, joint venture, corporation or other business entity whether formed for profit-making or nonprofit 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.

*City-owned youth athletic facilities:* facilities where sporting activities involving youth occur, including, but is not limited to, youth soccer, baseball, football, wrestling, track, skateboarding, and any other youth activities, whether the facility is enclosed or not.

*Employee:* any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, as well as any person who volunteers his or her services for a nonprofit entity.

*Employer:* a person, business, partnership, association, corporation, trust, nonprofit entity, or a municipal corporation that employs the services of one or more individual persons.

*Enclosed area:* all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

*Fire department:* means the Green River Volunteer Fire Department.

*Health care facility:* an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical

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