

**VILLAGE OF McDONALD, OHIO
ORDINANCE NO.**

AN ORDINANCE ESTABLISHING CHAPTER 557 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF McDONALD, OHIO REGARDING SMOKING ON VILLAGE OWNED OUTDOOR PUBLIC PROPERTY.

WHEREAS, to provide for the health, safety, and general welfare of the residents of the Village of McDonald, Council for the Village of McDonald deems it prudent to enact legislation regulating smoking on Village owned outdoor public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE VILLAGE OF McDONALD, COUNTY OF TRUMBULL, STATE OF OHIO, that:

SECTION I: Chapter 557 of the Codified Ordinances of the Village of McDonald, Ohio, entitled Smoking on Village Owned Outdoor Public Property is hereby adopted to read in total as follows:

CHAPTER 557

SMOKING ON VILLAGE OWNED OUTDOOR PUBLIC PROPERTY

557.01 FINDINGS; INTENT; SCOPE.

(a) Medical studies have conclusively shown that smoking and exposure to secondhand smoke from smoking causes illness and disease including lung cancer, heart disease, and respiratory illness. Smoking has been declared by the state legislature, pursuant to Ohio Revised Code Chapter 3794, to be a statewide concern. Pursuant to Ohio Revised Code sections 3794.01 et seq., there is now a uniform state-wide minimum standard to protect people from the health hazards associated with exposure to secondhand smoke from smoking. Therefore, it is in the best interests of public health that smoking be prohibited and/or restricted on outdoor public property owned by or under the control of the Village. It is the intent of this chapter to make air safer to breathe on all property owned by or under the control of the Village by banning smoking outdoors on all such property.

(b) The provisions of this chapter shall be liberally construed to further the purpose of protecting public health and shall prevail over any less restrictive state or local laws or regulations. Nothing in this chapter shall be construed to permit smoking where it is otherwise prohibited by other laws or regulations including Ohio Revised Code sections 3794.01 et seq.

(c) Pursuant to Ohio Revised Code section 3794.05, the Village hereby declares any public outdoor property, as defined herein, which is owned and/or controlled by the Village and not otherwise qualifying as a nonsmoking place under Ohio Revised Code Chapter 3794, to be a nonsmoking place.

557.02 DEFINITIONS

(a) “Public outdoor property” means and refers to the following outdoor property, places, spaces and related areas owned and/or controlled by the Village and open to the public without regard to whether a fee for admission is charged:

- (1) All public parks including, but not limited to, Woodland Park bounded on the north by E. Fifth Street and Pennsylvania Avenue and bounded on the south by E. Seventh Street, including all sports fields, baseball fields, softball fields, volleyball courts, tennis courts, basketball courts, playgrounds, the splash-pad, trails, and all pavilions, bathrooms, surrounding areas and grounds;
- (2) All exterior areas of the Village buildings including, but not limited to, the Municipal Building located at 451 Ohio Avenue, the Recreation Building located at 500 Ohio Avenue, and the Street and Water Department Garages located at 200 Second Street; and
- (3) All Village owned parking lots.

“Public outdoor property” includes sidewalks and paths within the locations listed above, but does not include Village owned rights of way, streets, sidewalks, or alleys outside of the locations listed above.

(b) “Smoking” means inhaling, exhaling, burning, lighting, or carrying:

- (1) Any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant; or
- (2) Any activated electronic cigarette.

“Smoking” does not include the burning of incense in a religious ceremony.

(c) “Electronic cigarette” means any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe. “Electronic cigarette” does not include:

- (1) Any product that is a “drug” as that term is defined in 21 U.S.C. 321(g)(1);

- (2) Any product that is a “device” as that term is defined in 21 U.S.C. 321(h);
or
- (3) Any product that is a “combination product” as described in 21 U.S.C. 353(g).

557.03 SMOKING ON PUBLIC OUTDOOR PROPERTY PROHIBITED.

- (a) Smoking is hereby prohibited on public outdoor property.
- (b) No person found to be smoking on public outdoor property shall fail to immediately cease said activity when requested to do so by a Village police officer, Village representative, or person charged with management or care of public outdoor property.
- (c) Lack of intent to violate a provision of this chapter shall not be a defense to a violation.

557.04 POSTING OF SIGNS.

"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) shall be conspicuously posted on public outdoor property, including at designated entrances, where smoking is prohibited by this chapter. Signs shall be of sufficient size to be clearly legible to a person of normal vision throughout the designated areas. All signs shall contain a telephone number for reporting violations.

557.05 COMPLAINTS; ENFORCEMENT.

Village resident complaints of violations of this chapter may be directed to the Village Administrator, Police Department, or to the Village Administration Office. Village resident complaints will assist the Village’s enforcement of this chapter.

557.06 PENALTIES.

- (a) Whoever violates section 557.03(a) is guilty of a minor misdemeanor. Upon a conviction for a first offense, the fine shall be not more than fifty dollars (\$50.00); upon a conviction for a second offense the fine shall not more than one hundred (\$100.00); and upon a conviction for a third or subsequent offense the fine shall be not more than one hundred fifty dollars (\$150.00).
- (b) Whoever violates section 557.03(b) is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or incarcerated not more than 30 days, or both.

Section II. The passage of this Ordinance and all deliberations relating of the passage of this Ordinance were held in open meetings in accordance with the provisions of Ohio Revised Code Section 121.22

Section III. This Ordinance shall be in full legal force and effect from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2017.

Mayor

Attest to:

Fiscal Officer