



# MEMORANDUM

## City Manager's Office

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To: Governing Body

From: Jim Colson, City Manager

Date: August 11, 2015

Subject: Response to August 4 policy discussion

Based on your discussion at last week's meeting of the policy and ordinance items, we wanted to follow-up with you. We will be taking up the public nudity and e-cigarette ordinances at next week's meeting. We have attached to this memo the ordinance draft language for your review.

As stated before, we will provide you with information so that you can make a well-informed decision.

### **Public nudity**

It was requested to review and address the definition of "public view" in the ordinance on public nudity. Legal has drafted the ordinance. The ordinance would specifically state, "It is unlawful for any person to knowingly or intentionally appear in a state of nudity on a sidewalk, street, alley, public right-of-way, public park or public trail."

Several Kansas cities prohibit public nudity, and none of them have verbiage about viewing nudity. Our legal staff would not recommend "public view" language because of the unintended consequences. We believe how the ordinance is currently drafted would address the concern of public nudity and greater define where it should not be seen.

### **E-cigarettes**

It was requested to provide additional information from the medical community and manufacturers regarding the health impact of e-cigarettes. *USA Today* on August 28, 2014, reported there are 466 brands of e-cigarette products and more than 7,700 flavors.

The Food and Drug Administration does not currently regulate e-cigarettes. Only e-cigarettes that are marketed for therapeutic purposes are currently regulated by the FDA Center for Drug Evaluation and Research (CDER). Currently, the FDA Center for Tobacco Products (CTP) regulates cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. FDA has issued a proposed rule that would extend the agency's tobacco authority to cover additional products that meet the legal definition of a tobacco product, such as e-cigarettes. FDA's Extending Authorities to Additional Tobacco Products webpage offers more information on the proposed rule. FDA reports e-cigarettes have not been fully studied. We do not know the potential risks of e-cigarettes, how much nicotine or other potentially harmful chemicals are being inhaled, or whether there are any benefits associated with these products.

According to a September 2014 report by the World Health Organization (WHO) on e-cigarettes, most of these products "have not been tested by independent scientists but the limited testing has revealed wide variations in the nature of the toxicity of contents and emissions." The e-cigarettes do deliver some level of nicotine to the user. "The number of reported incidents involving nicotine poisoning has risen substantially" as the use of these devices have increased. Short-term effects of using an e-cigarette includes eye and respiratory irritation caused by overexposure to propylene glycol. Whether it actually causes cancer will be unknown for years until there is more time for the onset of diseases of interest.

In terms of second-hand inhalants by non-users, there are concerns, according to the WHO. "Bystanders are exposed to the aerosol exhaled by the user, which increases the background level of some toxicants, nicotine as well as fine and ultrafine particles in the air. Nevertheless, the level of toxicants, nicotine and particles emitted from one e-cigarette is lower than that of conventional cigarette emissions. It is not clear if these lower levels in exhaled aerosol translate into lower exposure, as demonstrated in the case of nicotine." The report continues to say it is unknown if the increased exposure to these toxins and particles from e-cigarettes lead to an increased risk of disease and death among bystanders.

WHO concludes e-cigarettes are likely to be less toxic for the smoker than conventional cigarettes or other combusted tobacco products. However, "the amount of risk reduction is presently unknown." A 2014 Surgeon General's report concluded that non-combustible products such as e-cigarettes "are much more likely to provide public health benefits only in an environment where the appeal, accessibility, promotion, and use of cigarettes and other combusted tobacco products are being rapidly reduced."

According to the American Lung Association in 2014, "Unknown is what the potential harm may be to people exposed to secondhand emissions from e-cigarettes. Two initial studies have found formaldehyde, benzene and tobacco-specific nitrosamines (a carcinogen) coming from those secondhand emissions. While there is a great deal more to learn about these products, it is clear that there is much to be concerned about, especially in the absence of FDA oversight."

In terms of manufacturers, many of the e-cigarettes are produced by tobacco companies. The WHO report states, "If prior interest of the tobacco industry in reduced-risk products serves as a precedent, their interest lies in maintaining the status quo in favor of cigarettes for as long as possible, while simultaneously providing a longer-term source of profit should the cigarette model prove unsustainable."

### **Towing uninsured vehicles**

We continue to research the issue of towing uninsured vehicles when stopped for traffic violations. Impounding uninsured motor vehicles on routine traffic stops raises several operational and financial issues. We will continue to research these issues and report back to you.