2015-33

LEE COUNTY
NORTH CAROLINA
Committed Today for a Better Tomorrow

RESOLUTION AMENDING CHAPTER 2, ARTICLE III OF THE LEE COUNTY CODE OF ORDINANCES CONCERNING THE USE OR SMOKING OF TOBACCO IN COUNTY GOVERNMENT BUILDINGS, COUNTY VEHICLES AND ON COUNTY GOVERNMENT PROPERTY

WHEREAS, counties are granted broad police power authority to protect the health, safety, and welfare of county employees and the general public by North Carolina General Statutes Section 153A-121; and,

WHEREAS, the Board of Commissioners has the authority to restrict smoking in County Government Buildings, in County Vehicles and on County Grounds pursuant to Section 130A-498 of the General Statutes of North Carolina; and,

WHEREAS, because the Board of Commissioners of the County of Lee desires to protect the health of individuals working in or visiting County Government Buildings and using County Vehicles from the risks related to second hand smoke, it passed a smoking ordinance on September 15, 2008, codified at Chapter 2, Article III of the Lee County Code of Ordinances; and,

WHEREAS, changes to state law and the definitions related to tobacco products necessitates amending the County's ordinance in order to comply with the law and to protect the health, safety, and welfare of Lee County citizens and employees.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the County of Lee, Chapter 2, Article III of the Lee County Code of Ordinances is amended as follows:

ARTICLE III. USE OR SMOKING OF TOBACCO PRODUCTS IN COUNTY GOVERNMENT BUILDINGS AND VEHICLES AND ON COUNTY GOVERNMENT GROUNDS

Section 2-51. <u>DEFINITIONS</u>

"County Government Building" means any building that is either owned by the county or is leased by the county as lessor, or any area in a building leased by the county as lessee and is occupied by the county.

"County Government Grounds" means the unenclosed area owned, leased, or occupied by the County of Lee, including, but not limited to, county-owned areas around county government buildings, county-owned parks and recreational areas, and all other county-owned property.

"County Vehicle" means a passenger-carrying vehicle owned, leased, or otherwise controlled by local government and assigned permanently or temporarily by local government to local government employees, agencies, institutions, or facilities for official local government business.

" Smoking" or "smoke" means the use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

"Tobacco Products" means any product that contains tobacco and is intended for human use or consumption. For purposes of this section, the term includes a tobacco-derived product, e-cigarette, vapor product, or components of a vapor product.

Section 2-52. AREAS WHERE SMOKING AND USE OF TOBACCO PRODUCTS IS PROHIBITED

Smoking and the use of tobacco products is prohibited:

(a) In any County Government Building;

(b) In any County Vehicle owned, leased, or operated by Lee County;

(c) On any County Grounds that are owned, leased, occupied, or operated by Lee County, except in specific areas upon such Grounds which may be designated by the County Manager, adjoining a local government building, to serve as the smoking area for those buildings in which smoking may be permitted.

Section 2-53. ENFORCEMENT AND PENALTIES

(a) Employees who violate this ordinance may be subject to sanctions consistent with the county's Personnel Policies, in addition to the punishment for the infraction.

(b) Employees and others who violate the provisions of this ordinance are punishable for an infraction.

(c) Anyone found responsible for an infraction as a result of violation of this ordinance shall for pay a penalty of $50.00.

(d) Remedies. This ordinance may be enforced by equitable remedies in accordance with North Carolina General Statutes Section 153A-123.

Section 2-54. SIGNAGE

The County Manager shall direct that appropriate signage be posted in areas where smoking is prohibited pursuant to this ordinance.

Section 2-55. CONFLICT OF LAWS

If any portion of this ordinance or the enforcement thereof is found to be preempted by State or Federal law, such preemption shall not operate to invalidate the rest of the ordinance and same shall remain in full force and effect. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 2-56: EFFECTIVE DATE

This ordinance shall be effective upon adoption.

Adopted this 16th day of November, 2015.

Amy M Dalrymple

Amy M. Dalrymple, Chair
Lee County Board of Commissioners

ATTEST:

Gaynell M. Lee

Gaynell M. Lee, Clerk to the Board