

Mascoutah City Council

October 3, 2022

REGULAR MEETING AGENDA

IN-PERSON MEETING with combined IN-PERSON and optional VIRTUAL PUBLIC PARTICIPATION – see below for instructions on attending virtually

7:00 pm – City Council Meeting

1. PRAYER & PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. ROLL CALL

4. AMEND AGENDA – consideration of items to be added/ deleted to /from the meeting agenda. *No action can be taken on added items, but may be discussed only. Exceptions – emergency items as authorized by law.*

5. MINUTES, September 19, 2022 City Council Meeting (Page 1 to Page 4) September 19, 2022 Executive Session Meeting (confidential, see City Clerk)

6. PUBLIC COMMENTS (3 minutes) – opportunity for the public to comment.

7. REPORTS AND COMMUNICATIONS

- A. Mayor – SLM Water Commission Appointment
- B. City Council
- C. City Manager
- D. City Attorney
- E. City Clerk

8. COUNCIL BUSINESS

A. Council Items for Action

1. Code Change – Vaping: Possession by Minors (first reading)

(Page 5 to Page 7)

Description: Approval of revisions to Chapter 27 Offenses, adding Sec. 27-1-9 – Vaping: Possession by Minors Prohibited by adoption of ordinance.

Recommendation: First Reading.

2. Code Change – Vaping Prohibition in Enclosed Public Places (first reading)

(Page 8 to Page 11)

Description: Approval of revisions to Chapter 27 Offenses, adding Sec. 27-1-10 – Vaping Prohibition in Enclosed Public Places by adoption of ordinance.

Recommendation: First Reading.

B. Council Miscellaneous Items

C. City Manager

9. PUBLIC COMMENTS (3 MINUTES)

10. ADJOURNMENT TO EXECUTIVE SESSION

A. Purchase/Lease of Property – Section 2(c)(5)

B. Litigation – Section 2(c)(11)

11. MISCELLANEOUS OR FINAL ACTIONS – NONE

12. ADJOURNMENT

POSTED 9/29/22 at 4:00 PM

OPTIONAL VIRTUAL PUBLIC PARTICIPATION – see below for instructions on attending virtually

In-person public attendance is allowed. Optional virtual public attendance is also being provided virtually through Zoom Meeting (<https://zoom.us>).

Please join my meeting from your computer, tablet or smartphone.

<https://us02web.zoom.us/j/87876758114>

You can also dial in using your phone.

United States: +1 (312) 626-6799

Access Code: 878-7675-8114

**CITY OF MASCOUTAH
CITY COUNCIL MINUTES
#3 WEST MAIN STREET
MASCOUTAH, IL 62258-2030**

SEPTEMBER 19, 2022

CITY COUNCIL ARPA WORKSHOP 6:30-6:52

The minutes of the regular meeting of the City Council of the City of Mascoutah.

PRAYER AND PLEDGE OF ALLEGIANCE

City prayer was delivered by City Clerk Melissa Schanz. The Council remained standing and recited the Pledge of Allegiance.

CALL TO ORDER

Mayor Pat McMahan called the meeting to order at 7:00p.m.

ROLL CALL

Mayor Pat McMahan and Council members John Weyant, Walter Battas, Nick Seibert and Doug Elbe.

Absent: None.

Other Staff Present: City Manager Becky Ahlvin, Assistant City Manager Kari Speir, City Clerk Melissa Schanz, City Attorney Al Paulson, Public Works Director Jesse Carlton, EMS Supervisor Jeremy Gottschammer and Police Chief Scott Waldrup.

Establishment of a Quorum: A quorum of City Council members was present.

AMEND AGENDA

Battas moved, seconded by Seibert to amend the agenda to add Personnel – Section 2(c)(1) to Executive Session.

MINUTES

The minutes of the September 6, 2022 regular City Council meeting were presented and approved as presented. The minutes of the September 6, 2022 Executive Session meeting were presented and approved as presented.

Motion passed. Passed by unanimous yes voice vote.

PUBLIC COMMENTS

James Shanks was present and upset about his utility bill.

Paul Schorr expressed his support from the council for using ARPA funds for sewer work within the city.

DEPARTMENT REPORTS

Fire Chief Joe Zinck – August 2022 monthly report was provided.

Police Chief Scott Waldrup – August 2022 monthly report was provided.

Finance Coordinator Lynn Weidenbenner – August 2022 monthly financials were provided.

Public Works Director Jesse Carlton – August 2022 building and status report was provided.

City Engineer Tom Quirk – *Absent* - August 2022 status report on public projects was presented by City Manager Becky Ahlvin.

REPORTS AND COMMUNICATIONS

Mayor – Attended IML Conference in Chicago and thanked Councilman Doug Elbe for his service to the City of Mascoutah.

City Council

Weyant – Attended IML Conference in Chicago.

Battas – Thanked Maddie Groff for a great pool season.

Seibert – Attended the Mascoutah Athletic Commission meeting.

Elbe – Thanked everyone for the opportunity and support over the past two years as Councilman.

City Manager – Announced it will be her last meeting until after maternity leave.

City Attorney – Nothing to report.

City Clerk – Attended IML Conference in Chicago.

COUNCIL BUSINESS

CONSENT CALENDAR (OMNIBUS)

The August 2022 Fund Balance Report and Claims & Salaries Report were provided under the omnibus consideration.

Weyant moved, seconded by Battas, to accept all items under Omnibus consideration.

Motion passed. AYE's – Weyant, Battas, Seibert, Elbe, McMahan. NAY's – none.
ABSENT – none.

RESOLUTION AUTHORIZING SALE OF SURPLUS EQUIPMENT

City Manager presented report for Council approval and adoption of a resolution authorizing the sale of surplus equipment. The surplus equipment is a 2013 Ford Explorer from the Mascoutah Police Department.

There was no further discussion.

Elbe moved, seconded by Seibert, to approve and adopt Resolution No. 22-23-17, a resolution authorizing the sale of surplus equipment.

Motion passed. AYE's – Weyant, Battas, Seibert, Elbe, McMahan. NAY's – none.
ABSENT – none.

ITEP RESOLUTION – L&N TRAIL

City Manager presented report for Council approval of a Resolution in support of allocating funds up to 20% of total project cost to match a potential Illinois Transportation Enhancement Program (ITEP) grant for the L&N Trail Project.

There was no further discussion.

Seibert moved, seconded by Elbe to approve and adopt Resolution No. 22-23-18, a resolution in support of allocating City funds to pay for the City's match of a potential ITEP Grant for L&N Trail Project.

Motion passed. AYE's – Weyant, Battas, Seibert, Elbe, McMahan. NAY's – none.
ABSENT – none.

COUNCIL – MISCELLANEOUS ITEMS

None.

CITY MANAGER – MISCELLANEOUS ITEMS

None.

PUBLIC COMMENTS

Jerry Daugherty asked the Council if they could look into putting the part of Hunters Creek that is having the backup issues on the "hot spot" pump list. Staff stated that area has already been added to that list.

ADJOURNMENT TO EXECUTIVE SESSION

Elbe moved, seconded by Battas, to adjourn to Executive Session to discuss Purchase/Lease of Property – Section 2(c)(5), Litigation – Section 2(c)(11) and Personnel – Section 2(c)(1) 7:34p.m.

Motion passed. AYE's – Weyant, Battas, Seibert, Elbe, McMahan. NAY's – none.
ABSENT – none.

RETURN TO REGULAR SESSION

Elbe moved, seconded by Weyant, to return to regular session at 8:27p.m.

MISCELLANEOUS OR FINAL ACTIONS

None.

ADJOURNMENT

Elbe moved, seconded by Weyant, to adjourn at 8:28 p.m.

Motion passed. Motion passed by unanimous yes voice vote.

Melissa Schanz, City Clerk

CITY OF MASCOUTAH
Staff Report

TO: Honorable Mayor & Council

FROM: Becky Ahlvin, City Manager

SUBJECT: **Code Change – Vaping: Possession by Minors (first reading)**

MEETING DATE: October 3, 2022

REQUESTED ACTION:

Council consideration of approval of revisions to Chapter 27 Offenses, adding Sec. 27-1-9 – Vaping: Possession by Minors Prohibited by adoption of ordinance.

BACKGROUND & STAFF COMMENTS:

At the request of the Mascoutah School District and Mascoutah Police Department, staff worked with the City Attorney to draft an ordinance prohibiting minors from being in possession of vaping products.

RECOMMENDATION:

The Mascoutah Police Department recommends approval.

SUGGESTED MOTION:

I move that the City Council approve and adopt Ordinance 22-____, thereby modifying Chapter 27 – Offenses, Adding Sec. 27-1-9 – Vaping: Possession by Minors Prohibited.

Prepared By: Melissa A. Schanz
Melissa A Schanz
City Clerk

Approved By: Kari O. Speir
Kari Speir
Assistant City Manager

Attachments: A – Ordinance

ORDINANCE NO. 22-__

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 27,
OFFENSES, BY ADDING SEC. 27-1-9, VAPING: POSSESSION BY MINORS
PROHIBITED OF THE CITY OF MASCOUTAH, ILLINOIS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MASCOUTAH, IN
ST. CLAIR COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Amending CHAPTER 27, ADDING SEC. 27-1-9, VAPING:
POSSESSION BY MINORS PROHIBITED, as attached.

SECTION 2: This ordinance shall be in full force and effect after passage, approval and
publication as required by law.

PASSED by the Mayor and the City Council of the City of Mascoutah, County of St.
Clair, State of Illinois, upon motion by Councilman _____, seconded by Councilman
_____, adopted on the following roll call vote on the 3rd day of October, 2022, and deposited
and filed in the Office of the City Clerk in said City on that date.

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
John Weyant	_____	_____	_____
Walter Battas	_____	_____	_____
Nick Seibert	_____	_____	_____
Vacant	_____	_____	_____
Pat McMahan	_____	_____	_____

APPROVED AND SIGNED by the Mayor of the City of Mascoutah, Illinois, this 3rd
day of October, 2022.

ATTEST:

Mayor

City Clerk
(SEAL)

CHAPTER 27 – OFFENSES
ARTICLE I – CRIMINAL CODE ADOPTED

Sec. 27-1-9 – Vaping: Possession by Minors Prohibited

- (a) *Purpose.* This section shall be cited as “Vaping: Possession by Minors Prohibited,” the purpose of which is to protect the public health, comfort, and environment by prohibiting vaping alternative nicotine products to be possessed by minors, under the age of 21.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) *Alternative nicotine products* mean a product or device not consisting of or containing leaf tobacco that provides for the ingestion into the body of nicotine by any means, but excluding any product approved by the United States Food and Drug Administration as a tobacco cessation product, tobacco dependency product, or for other medical purpose, and being marketed solely for that approved purpose.
 - (2) *Vape* or *Vaping* means using a vapor cigarette or alternative vapor transmission modality to vape alternative nicotine products.
 - (3) *Vapor cigarettes* or *alternative vapor transmission modalities* mean devices which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user including but not limited to e-cigarettes, e-cigs, vape, wax vape pens or other similar modalities.
- (c) *Penalty.*
- (1) If a minor is in violation of the provisions of this Section shall be guilty of an offense punishable by a fine of not less than \$200.00 and/or subject to twenty (20) hours of community service.
 - (2) A minor in violation of the provisions of this Section for a subsequent offense shall be guilty of an offense punishable by a fine of not less than \$300.00 and/or subject to forty (40) hours of community service. If offenses occur more than one year from a prior offense date, the cycle of minimum fines set for this section shall renew.

CITY OF MASCOUTAH
Staff Report

TO: Honorable Mayor & Council

FROM: Becky Ahlvin, City Manager

SUBJECT: **Code Change – Vaping Prohibition in Enclosed Public Places
(first reading)**

MEETING DATE: October 3, 2022

REQUESTED ACTION:

Council consideration of approval of revisions to Chapter 27 Offenses, adding Sec. 27-1-10 – Vaping Prohibition in Enclosed Public Places by adoption of ordinance.

BACKGROUND & STAFF COMMENTS:

At the request of the Council, staff worked with the City Attorney to draft an ordinance to prohibit vaping in enclosed public places.

RECOMMENDATION:

Staff has no recommendation. Policy decision by Council.

SUGGESTED MOTION:

I move that the City Council approve and adopt Ordinance 22-____, thereby modifying Chapter 27 – Offenses, Adding Sec. 27-1-10 – Vaping Prohibition in Enclosed Public Places.

Prepared By: Melissa A. Schanz
Melissa A Schanz
City Clerk

Approved By: Kari Speir
Kari Speir
Assistant City Manager

Attachments: A – Ordinance

ORDINANCE NO. 22-__

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 27, OFFENSES, BY ADDING SEC. 27-1-10, VAPING PROHIBITION IN ENCLOSED PUBLIC PLACES, OF THE CITY OF MASCOUTAH, ILLINOIS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MASCOUTAH, IN ST. CLAIR COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Amending CHAPTER 27, ADDING SEC. 27-1-10, VAPING PROHIBITION IN ENCLOSED PUBLIC PLACES, as attached.

SECTION 2: This ordinance shall be in full force and effect after passage, approval and publication as required by law.

PASSED by the Mayor and the City Council of the City of Mascoutah, County of St. Clair, State of Illinois, upon motion by Councilman _____, seconded by Councilman _____, adopted on the following roll call vote on the 3rd day of October, 2022, and deposited and filed in the Office of the City Clerk in said City on that date.

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
John Weyant	_____	_____	_____
Walter Battas	_____	_____	_____
Nick Seibert	_____	_____	_____
Vacant	_____	_____	_____
Pat McMahan	_____	_____	_____

APPROVED AND SIGNED by the Mayor of the City of Mascoutah, Illinois, this 3rd day of October, 2022.

ATTEST:

Mayor

City Clerk
(SEAL)

CHAPTER 27 – OFFENSES
ARTICLE I – CRIMINAL CODE ADOPTED

Sec. 27-1-10 – Vaping Prohibition in Enclosed Public Places.

- (a) *Purpose.* This section shall be cited as "The Mascoutah Indoor Vape-Free Ordinance," the purpose of which is to protect the public health, comfort, and environment by prohibiting vaping alternative nicotine products: in all enclosed public places and places of employment; within 15 feet of all public entrances to such places; and within enclosed public places in order to ensure that non-smokers and non-vapers may breathe air free from the hazardous effects of second-hand smoke and alternative nicotine products.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) *Alternative nicotine products* means a product or device not consisting of or containing leaf tobacco that provides for the ingestion into the body of nicotine by any means, but excluding any product approved by the United States Food and Drug Administration as a tobacco cessation product, tobacco dependency product, or for other medical purpose, and being marketed solely for that approved purpose.
 - (2) *Vape* or *Vaping* means using a vapor cigarette or alternative vapor transmission modality to vape alternative nicotine products.
 - (3) *Vapor cigarettes* or *alternative vapor transmission modalities* mean devices which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user including but not limited to e-cigarettes, e-cigs, vape, wax vape pens or other similar modalities.
 - (4) *Public Places* means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the City of Mascoutah, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes,

auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the City of Mascoutah or City subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

- (c) *Signs.* Each owner, lessor, lessee, employer, or other person in control of a public place, shall post conspicuous "no smoking or vaping" signs at all entrances to such places where smoking or vaping is prohibited. Such "no smoking or vaping" signs shall have a white field with the words "no smoking or vaping" printed in red letters, four inches high with a one-half inch face, or shall bear the international "no smoking or vaping" symbols. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this chapter.

(d) *Penalty.*

- (1) Any person who vapes in an area where smoking or vaping is prohibited under the provisions of this chapter shall be guilty of an offense punishable by a fine of not less than \$200.00 and not more than \$750.00.
- (2) Any person who owns, manages, operates or otherwise controls an enclosed public place, a place of employment, that permits vaping in an area where or vaping is prohibited under the provisions of this chapter, shall be guilty of an offense punishable by a fine of not less than (i) \$200.00 for the first violation, (ii) not less than \$500.00 for a second violation within one year after the first violation, and (iii) not less than \$750.00 for an offense within one year after the second violation. If offenses occur more than one year from a prior offense date, the cycle of minimum fines set forth in this subsection shall renew. Upon a third violation within a two-year period by a person/entity holding a city license/permit, the mayor, after a hearing in which the violator may contest the violation or penalty, may suspend or revoke any city license/permit for the premises in which the violation occurred.
- (3) Each day any violation of this chapter shall continue shall constitute a separate offense.