

Kenai Peninsula Borough  
Assembly

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**MEMORANDUM**

**TO:** Brent Hibbert, Assembly President  
Members, Kenai Peninsula Borough Assembly

**FROM:** Brent Johnson, Assembly Vice-President

**DATE:** October 12, 2021

**SUBJECT:** Johnson Amendment #2 to Ordinance 2021-35, Amending KPB 10.08 to Prohibit Smoking in all Kenai Peninsula Borough Buildings and Vehicles, and Amending KPB 1.24.090 the Minor Offense Penalty Schedule (Johnson) (Hearing on 10/12/21)

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This memo proposes two amendments to Ordinance 2021-35. This memo is intended to replace the amendment memo dated September 30, 2021 from Brent Johnson labeled "Johnson Amendment Memo".

The first amendment proposed herein will repeal and replace KPB 10.08.020 with a definitions section to define the terms *Smoking* and *E-cigarette* to include tobacco and marijuana, including vapor products and electronic smoking products. The second amendment proposed herein will add a new section, KPB 10.08.030, to include a penalty for violations of KPB Chapter 10.08.

[Please note the underlined language is to be added and the strike through bracketed language is to be deleted.]

- Repeal and Replace KPB 10.08.020, as follows:

**10.08.020. - ~~[NO SMOKING SIGNS POSTED]~~ Definitions.**

[THE MAYOR SHALL CAUSE NOTICE TO BE POSTED AND MAINTAINED AT THE ASSEMBLY MEETING ROOM.]

"E-cigarette" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person through inhalation of vapor or aerosol from the product, of any size or shape, whether the product is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other

product name or descriptor; "e-cigarette" does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration as those terms are defined in 21 U.S.C. 301 - 392 (Food, Drug, and Cosmetic Act), unless the use of those products simulate smoking or expose others to vapor or aerosol.

"Smoking" means using an e-cigarette or other oral smoking device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe, or tobacco or plant product intended for inhalation.

- Renumber the proposed amended Section 10.08.020, Violations and penalties, to add a new Section 10.08.030 to read as follows:

**10.08.030. – Violations and penalties.**

Any violation of this chapter is an infraction. The fine for offenses in this title is the fine provided in the minor offense fine schedule found in KPB 1.24.090. If no fine is listed in the fine schedule for an offense, then the defendant must appear in court and is subject to the fine provided in KPB 1.24.070.

Your consideration of these two amendments to Ordinance 2021-35 is appreciated.