

Ordinance No.: 3869

**AN ORDINANCE OF THE CITY OF SWEETWATER,
FLORIDA AMENDING CHAPTER 38 OF THE CITY
CODE OF ORDINANCES TO PROHIBIT THE SALE OF
NICOTINE VAPORIZERS OR LIQUID NICOTINE TO
MINORS, PROHIBITING THE SALE IN VENDING
MACHINES, PROVIDING FOR ENFORCEMENT,
PROVIDING DEFINITIONS, PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION;
PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, new, unregulated high-tech nicotine vaporizers, sometimes referred to as electronic cigarettes or e-cigarettes, have recently been made available to consumers, including minors; and,

WHEREAS, these devices have users inhale vaporized liquid nicotine created by heat through an electronic ignition system and expel vapors that usually contain a concentration of pure nicotine; and,

WHEREAS, nicotine is a known neurotoxin and is also one of the most highly addictive substances available for public consumption; and,

WHEREAS, the manufacturers and marketers of nicotine vaporizers purposefully and intentionally advertise their products as safe nicotine delivery devices and smoking cessation modalities; and ,

WHEREAS, these safety and smoking cessation assertions made by nicotine vaporizer companies have been questioned or disproven by laboratory tests conducted by the U.S. Food and Drug Administration ("FDA"); and,

WHEREAS, a study published in the American Journal of Public Health found similar results to the FDA testing and concluded that the nicotine vaporizers tested so far have demonstrated "poor quality control; toxic contaminants, albeit at low levels; misrepresentation of the nicotine delivered; and insufficient evidence of the overall public health benefit;" and,

WHEREAS, the Centers for Disease Control and Prevention ("CDC"), found that although "some e-cigarettes have been marketed as smoking cessation aids, there is no conclusive scientific evidence that e-cigarettes promote successful long-term quitting"; and,

WHEREAS, the World Medical Association has determined that nicotine vaporizers "are not comparable to scientifically-proven methods of smoking cessation" and that "neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established"; and

WHEREAS, concurrent with this lack of suitable information, nicotine vaporizer manufacturers offer their nicotine cartridges in a variety of flavors, including cherry, chocolate, and vanilla which the FDA and public health advocates warn are purposefully meant to appeal to and attract young people and are commonly referred to as "training wheels" for traditional cigarettes; and

WHEREAS, the CDC has found that:

"Electronic cigarettes, or e-cigarettes, are battery-powered devices that provide doses of nicotine and other additives to the user in an aerosol. Depending on the brand, e-cigarette cartridges typically contain nicotine, a component to produce the aerosol (e.g., propylene glycol or glycerol), and flavorings (e.g., fruit, mint, or chocolate). Potentially harmful constituents also have been documented in some e-cigarette cartridges, including irritants, genotoxins, and animal carcinogens. E-cigarettes that are not marketed for therapeutic purposes are currently unregulated by the Food and Drug Administration, and in most states there are no restrictions on the sale of e-cigarettes to minors. Use of e-cigarettes has increased among U.S. adult current and former smokers in recent years; however, the extent of use among youths is uncertain."; and

WHEREAS, the federal law restricting the sale of tobacco products to minors currently applies only to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco, not nicotine vaporizers; and

WHEREAS, because these devices are presently unregulated, the nicotine content in nicotine vaporizers is unknown, unspecified, unpredictable, varied and presents a significant risk of rapid addiction; and

WHEREAS, the City is supportive of tobacco cessation programs and modalities that have proven efficacy and utilize safe FDA-approved products; and

WHEREAS, currently the City Code does not provide for a regulation regarding the sale of nicotine vaporizers and liquid nicotine; and

WHEREAS, this legislation is in the best interest of the residents of the City of Sweetwater;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF SWEETWATER, FLORIDA:

Article 1. Chapter 38, Miscellaneous Offenses is hereby amended with the inclusion of the following:

Ord # 3869

**Sec. 38-8 - SALE OF NICOTINE VAPORIZER OR LIQUID NICOTINE
TO MINORS PROHIBITED**

(a) Definitions:

(1) Liquid Nicotine. Any liquid product composed either in whole or in part of pure nicotine which can be used with Nicotine Vaporizers.

(2) Nicotine Vaporizer. Any electronic or battery-operated device that can be used to deliver an inhaled dose of nicotine or other substances and includes those composed of a mouthpiece, heating element, and battery or electronic circuits that provide a vapor of Liquid Nicotine and/or other substances to the user. This term shall include such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, an e-cigarette, an e-cigar, e-cigarillo, an e-pipe an e-hookah or under any other product name.

(b) Sale Prohibited. No Person shall sell, give or furnish a Nicotine Vaporizer or Liquid Nicotine to a Person under 18 years of age. The buyer or recipient's identification shall be examined to confirm that the buyer or recipient is at least 18 years of age.

(c) Self-service Vending Machines. In order to minimize the physical accessibility to minors, no Person shall offer Nicotine Vaporizers or Liquid Nicotine in vending machines.

(d) Enforcement. This section may be enforced pursuant to section 1-15 of the City Code of Ordinances by any police officer of the city.

Article 2. All ordinances or portions of the Code of Ordinances of the City of Sweetwater in conflict with the provisions of this ordinance shall be repealed upon the effective date hereof.

Article 3. It is the intention of the Mayor and the City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention codifiers may change the words "ordinance" or "section" to other appropriate words.

Article 4. If any portion of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the ordinance.

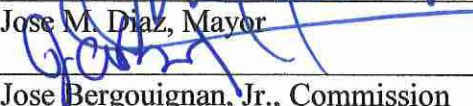
Article 5. This ordinance shall become effective upon its adoption by the City Commission and approval by the Mayor or, if vetoed, upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater.

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PASSED AND ADOPTED on

April 7, 2014

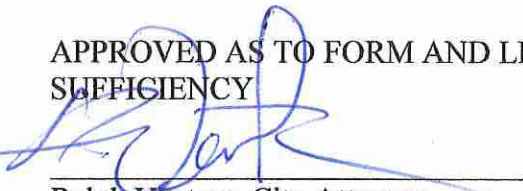

Jose M. Diaz, Mayor


Jose Bergouignan, Jr., Commission
President

ATTEST:


Marie O. Schmidt, City Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY


Ralph Ventura, City Attorney

VOTE UPON ADOPTION:

Jose Bergouignan, Jr. Commission President
Orlando Lopez, Commission Vice President
Prisca Barreto, Commissioner
Manuel Duasso, Commissioner
Jose M. Guerra, Commissioner
Isolina Maroño, Commissioner
Catalino Rodriguez, Commissioner

yes
yes
yes
yes
yes
yes
yes

Date of first reading

March 3, 2014

Date of publication

MARCH 26, 2014

Date of second reading

April 7, 2014

Ord # 3869