

ORDINANCE NO. 2020 -254

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 12, LAW ENFORCEMENT, CREATING ARTICLE IV, TITLED “SALE OF NICOTINE VAPORIZERS (E-CIGARETTES), LIQUID NICOTINE TO MINORS AND POSSESSION TO MINORS PROHIBITED, PROVIDING FOR SIGNAGE REQUIREMENTS”; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, according to recent news reports, the use of flavored electronic cigarettes (e-cigarettes) among minors has grown at an alarming rate, especially among middle and high school students; and

WHEREAS, based on information, e-cigarettes are designed to be sleek, dispense high-amounts of nicotine per use, and provide a variety of chemically created Liquid Nicotine cartridges intended to induce use and addiction amount minors; and

WHEREAS, a 2016 Report of the U.S. Surgeon General, entitled “E-Cigarette Use Among Youth and Young Adults,” concluded that the use of nicotine in any form by youth is unsafe, and that nicotine exposure during adolescence can cause addiction and can harm the developing adolescent brain; and

WHEREAS, during the September 2019 Town of Miami Lakes (the “Town”) Council Meeting, the Town Council provided the Town Attorney with instruction to draft an Ordinance for consideration which would prohibit the use of e-cigarettes among minors within the Town; and

WHEREAS, the Town Council finds that it is necessary to protect the health, safety, and welfare of the residents and visitors of the Town to prohibit the sale of e-cigarettes, e-cigarette accessories, and liquid nicotine to minors.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
MIAMI LAKES AS FOLLOWS:**

Section 1. Recitals. Each of the above stated recitals is true and correct and is incorporated herein by this reference.

Section 2. Creation of Article IV, of Chapter 12: Article IV, of Chapter 12 is hereby enclosed in Exhibit “A.”

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

FIRST READING

The foregoing ordinance was offered by Vice Mayor Rodriguez who moved its adoption on first reading. The motion was seconded by Councilmember Alvarez and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	Absent
Vice Mayor Nelson Rodriguez	yes
Councilmember Carlos O. Alvarez	yes
Councilmember Luis Collazo	yes
Councilmember Joshua Dieguez	yes
Councilmember Jeffrey Rodriguez	yes
Councilmember Marilyn Ruano	Absent

Passed on first reading this 10th day of December, 2019.

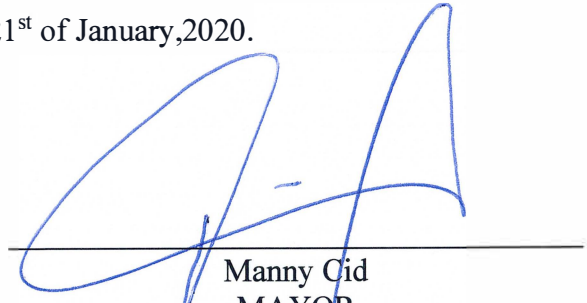
[THIS SPACE INTENTIONALLY LEFT BLANK]

SECOND READING

The foregoing ordinance was offered by Vice Mayor Rodriguez who moved its adoption on second reading. The motion was seconded by Mayor Cid and upon being put to a vote, the vote was as follows:

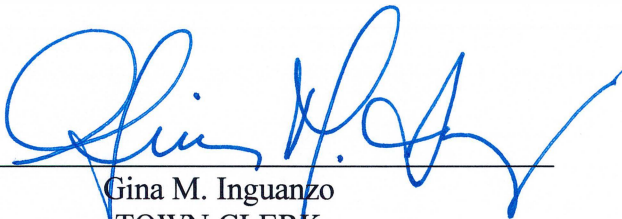
Mayor Manny Cid	yes
Vice Mayor Nelson Rodriguez	yes
Councilmember Carlos O. Alvarez	Absent
Councilmember Luis Collazo	yes
Councilmember Joshua Dieguez	yes
Councilmember Jeffrey Rodriguez	Absent
Councilmember Marilyn Ruano	yes

Passed and adopted on second reading this 21st of January, 2020.



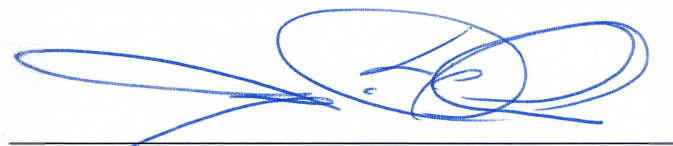
Manny Cid
MAYOR

Attest:



Gina M. Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi, Lopez & Mestre, PLLC
TOWN ATTORNEY

CHAPTER 12
LAW ENFORCEMENT

o o o o

ARTICLE IV – Sale of Nicotine Vaporizers (E-Cigarettes) and Liquid Nicotine to Minors Prohibited; Possession by Minors Prohibited; Signage Requirements for Retailers

Section 12-54 – Definitions: For purposes of this article the following definitions apply:

- (1) Delivery sale means any sale of Nicotine Vaporizers or Liquid Nicotine to a consumer within the Town for which the consumer submits the order for the sale by telephonic or other voice transmission, by mail, by delivery service, or by the internet or other online service, or the Nicotine vaporizers or Liquid Nicotine are delivered by use of mail or a delivery service.
- (2) Liquid Nicotine means any liquid product composed either in whole or in part of pure nicotine which can be used with Nicotine Vaporizers.
- (3) Minor means a person under the age of eighteen (18).
- (4) Nicotine Vaporizer means any electronic or battery-operated nicotine dispensing device that can be used to deliver an inhaled dose of nicotine or other substance, and any device that can be used to deliver nicotine by inhaling caporized nicotine from the device, including, but not limited to those devices composed of a mouthpiece, heating element, or mechanism and batter or electronic circuits that provide a vapor of Liquid Nicotine or other substances to the user. This term shall include, but is not limited to, such devices as an electronic cigarette, an electronic cigar and electronic cigarillo, and electronic pipe, and electronic hookah, and any device that is rechargeable by a USB port or other method, whether they are manufactured, distributed, marketed, or sold under any other product name, and includes any replacement nicotine cartridge, replaceable nicotine pod, liquid nicotine vial, or other container used to refill or replace nicotine for the device or product.
- (5) Retailer means any person, business, or establishment who is in possession of Nicotine Vaporizers or Liquid Nicotine for the purposes of selling the Nicotine Vaporizers or Liquid Nicotine to consumers, individuals, or the general public.

Section 12-55 – Prohibitions:

- (1) It shall be unlawful to sell, give, furnish, barter, or make available directly or indirectly a Nicotine Vaporizer or Liquid Nicotine to a minor. The buyer or recipient's identification shall be examined to confirm that the buyer or recipient is at least 18 years of age.
- (2) In order to minimize the physical accessibility to minors, no person shall sell or offer for sale Nicotine Vaporizers or Liquid Nicotine by means of self-service merchandising or any other means other than vendor-assisted sales, unless access to the premises by person under the age of eighteen (18) is prohibited by the person, business tobacco retailer or other establishment or prohibited by law.
- (3) A retailer or any other establishment that sells Nicotine Vaporizers or Liquid Nicotine may not place such products or devices in an open display unit unless the unit is located in an area to which access is prohibited by persons under the age of eighteen (18).
- (4) It shall be unlawful for a person under the age of eighteen (18) to possess Nicotine Vaporizers, or Liquid Nicotine.

SECTION 12-56 – Signage Requirements for Retailers.

- (1) Any retailer or any other establishment that sells Nicotine Vaporizers or Liquid Nicotine shall post a clear and conspicuous sign where such products are sold which substantially states the following:

“THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.”

Failure to post this sign shall be deemed a violation of this section.

SECTION 12-57 – Prohibitions and Requirements Regarding Mail Order, Internet, and Remote Sales of Nicotine Vaporizer and Liquid Nicotine.

- (1) A person, business, tobacco retailer, or other establishment may not make a delivery sale of Nicotine Vaporizer and Liquid Nicotine to a minor. Each person accepting an order for a delivery sale must comply with the age-verification requirements set forth as follows: A person may not mail, ship, or otherwise deliver Nicotine Vaporizer and Liquid Nicotine in connection with an order for a delivery sale unless, before the delivery to the consumer, the person accepting the order for the delivery sold, obtains from the individual submitting the order a certification that includes:
- a.** Reliable confirmation that the individual is over the age of eighteen (18); and
 - b.** Makes a good faith effort to verify the information contained in the certification provided by the individual against a commercially available database that may be reasonably relied upon for accurate age information; and
 - c.** Obtains a photocopy or other image of a valid government-issued identification card stating the date of birth or age of the individual.