

ORDINANCE OF THE CITY OF FLOWOOD, MISSISSIPPI PROHIBITING THE
POSSESSION AND CONSUMPTION OF ALTERNATIVE NICOTINE PRODUCTS AND
ELECTRONIC CIGARETTES BY MINORS

WHEREAS, there is a proliferation of possession and use of alternative nicotine products and electronic cigarettes by minors which is resulting in serious injuries and death and which necessitates the regulation of the same within the corporate limits of the city; and

WHEREAS, the governing authorities of the city, find and determine that an ordinance prohibiting the use and possession of alternative nicotine products and electronic cigarettes is reasonable and necessary to prevent serious injury and death as a result of the use of the same by minors; and

NOW THEREFORE be it ordained by the governing authorities of the city as follows, to-wit:

Section 1. Possession and/or use of alternative nicotine products by minor prohibited; definitions, penalties.

(1) For the purposes of this section:

(a) (i) "Alternative nicotine product" means:

1. An electronic cigarette; or
2. Any other product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling or by any other means.

(ii) Alternative nicotine product does not include:

1. A cigarette or other tobacco product as defined in Section 97-32-3;
2. A product that is a drug under 21 USCS 321(g)(1);
3. A product that is a device under 21 USCS 321(h); or
4. A combination product described in 21 USCS 353(g).

(b) (i) "Electronic cigarette" means an electronic product or device that produces a vapor that delivers nicotine or other substances to the person inhaling from the device to simulate smoking, and is likely to be offered to, or purchased by, consumers as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vape or vaping device.

(ii) Electronic cigarette does not include:

1. A cigarette or other tobacco products as defined in Section 97-32-3;
2. A product that is a drug under 21 USCS 321(g)(1);

3. A product that is a device under 21 USCS 321(h); or

4. A combination product described in 21 USCS 353(g).

(2) No person under eighteen (18) years of age shall possess or use an alternate nicotine product and/or electronic cigarette within the corporate limits of the city.

(3) No person under eighteen (18) years of age, including students over the age of eighteen (18) years of age and under twenty-one (21) years of age, shall possess or use an alternate nicotine product and/or electronic cigarette on school property. School property means and includes a public or private school building or bus, public or private school campus, grounds, recreational area, athletic field or other property owned, used or operated any local school board, school, board of trustees or for directors for the administration of any public or private education institution, but does not include property of any school where a majority of those regularly enrolled in the school do not constitute "compulsory school age children" as that term is defined in MCA Section 37-13-91 (1972 as amended), or private home, home school, or ecclesiastical school.

(4) A violation of this subsection is punishable as follows:

(a) For a first offense, by a fine of Fifty Dollars (\$50.00), up to 30 hours of community service, and successful completion of a class aimed at educating and deterring the use of tobacco, alternative nicotine products and electronic cigarettes, or such combination of the penalties provided herein as the court determines in its discretion;

(b) For a second or subsequent offense by a fine of up to Two Hundred Fifty Dollars (\$250.00) up to 60 hours of community service, and successful completion of a class aimed at educating and deterring the use of tobacco, alternative nicotine products and electronic cigarettes, or such combination of the penalties provided herein as the court determines in its discretion. For any second or subsequent offense, the court may require as a condition of completion that a parent or legal guardian of the minor defendant to attend and complete the class referenced herein with the violator;

(c) At any hearing or trial of any charge brought under this section, a parent or legal guardian of the minor defendant shall be present at court with the minor defendant unless otherwise excused by the court.

(d) The court shall have the full discretion to reduce, suspend, and/or non-adjudicate and to expunge, the charge, fines, penalties and/or other requirements under this section.

Section 2. In order to preserve the health, safety and welfare of the community, upon unanimous vote, this Ordinance shall go into effect immediately upon adoption. In the event the vote the adopt this Ordinance is less than unanimous, this Ordinance shall go into effect thirty (30) days after the adoption hereof.

Section 3. All provisions of Ordinances of the city in specific and express conflict herewith are hereby repealed.

Section 4. This Ordinance having been reduced to writing and no request for the same to be read by the Clerk having been made, the same was introduced by Alderman Rhoads, seconded by Alderman Harmon and was adopted by the following vote, to wit:

Alderman Deron Harmon	AYE
Alderman Kathy Smith	AYE
Alderman Don Flynt	AYE
Alderman Dusty Rhoads	AYE
Alderman Kirk McDaniel	AYE

The Mayor thereby declared the Motion carried and the Ordinance adopted and approved on this the 16th day of December 2019.



GARY RHOADS, MAYOR

ATTEST:



JOSH CARLISLE, CITY CLERK

