

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 115, "MISCELLANEOUS BUSINESSES," BY CREATING SECTION 115.30, "SALE OF NICOTINE VAPORIZERS OR LIQUID NICOTINE," TO PROVIDE FOR DEFINITIONS, PROHIBITIONS, ENFORCEMENT AND PENALTIES; BY AMENDING CHAPTER 131, "OFFENSES AGAINST PERSONS AND PROPERTY," BY CREATING SECTION 131.24, "PROHIBITED USE OF NICOTINE VAPORIZERS," TO PROVIDE FOR PROHIBITIONS, ENFORCEMENT AND CIVIL PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Chapter 115, "Miscellaneous Businesses," of the Pompano Beach Code of Ordinances is hereby amended to create Section 115.30, "Sale of Nicotine Vaporizers or Liquid Nicotine," to read as follows:

§ 115.30 SALE OF NICOTINE VAPORIZERS OR LIQUID NICOTINE.

(A) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) **NICOTINE VAPORIZER.** Any electronic or battery-operated device which 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, an e-pipe or under any other product name, and whether it is utilizing liquid nicotine or any other substance at the time of use by a person.

(2) **LIQUID NICOTINE.** Any liquid product which can be used with nicotine vaporizers.

(B) *Sale prohibited.* It is unlawful for any person to sell, give or furnish a nicotine vaporizer or liquid nicotine to a person under the age of 18.

(C) *Self-service vending machines.* In order to minimize the physical accessibility to minors, it is unlawful for any person to offer nicotine vaporizers or liquid nicotine in vending machines.

(D) *Enforcement.* This section may be enforced by any city law enforcement officer.

(E) *Penalties.* Any person found guilty of violating any of the provisions of this section shall be punished in accordance with Section 10.99 of this Code.

SECTION 2. That Chapter 131, “Offenses Against Persons and Property,” of the Pompano Beach Code of Ordinances is hereby amended to create Section 131.24, “Prohibited Use of Nicotine Vaporizers,” to read as follows:

§ 131.24 PROHIBITED USE OF NICOTINE VAPORIZERS.

(A) The definitions in Section 115.30 (A) shall apply to this section.

(B) The use of nicotine vaporizers is prohibited at all locations within the city at which smoking is prohibited under Chapter 386, Florida Statutes.

(C) The use of nicotine vaporizers is prohibited in all public areas in the city, including parks and recreational areas.

(D) *Enforcement.* This section may be enforced by any city law enforcement officer, code enforcement inspector or city park ranger.

(E) *Penalties.*

(1) Any person found in violation of this section shall commit a civil infraction and be subject to a fine of \$100 for the first offense; \$150 for the second offense; and \$250 for the third offense and subsequent offenses, payable to the City of Pompano Beach with 14 days.

(2) Any violation not paid within 14 days of the issuance thereof shall be assessed an additional \$10 fee.

(3) Any person may elect to appear in Broward County Court to contest any such violation;

(4) In addition, the city may commence prosecution in Broward County Court for any such violation that remains unpaid and for which no request to contest the violation has been made for more than 30 days.

(5) Following a hearing, a County Court Judge shall determine whether a violation has been committed and may impose the penalty as set forth in subsection (1) above, plus court costs and the costs of prosecution up to \$100 as determined by the court.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/jrm
6/18/18
L:ord/ch115/2018-223