

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, PROHIBITING THE SALE OF FLAVORED VAPING PRODUCTS AND THE SALE OF CERTAIN FLAVORED VAPING PRODUCTS PARAPHERNALIA IN THE UNINCORPORATED AREA OF VENTURA COUNTY

The Board of Supervisors of the County of Ventura, State of California, ordains as follows:

SECTION 1. Findings and Declarations

The Board makes the following findings and declarations in support of the enactment of this urgency Ordinance:

- A. CEQA Exemption Findings.** The enactment of this Ordinance affects only the sale of limited products by individuals and not the physical environment. Therefore, the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") because its enactment does not fall within CEQA's definition of "project" (Cal.Code Regs., tit. 14, § 15378) as the enactment of this ordinance prohibiting sale of flavored vaping products and paraphernalia has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

The enactment of this Ordinance is also exempt from CEQA because it falls within CEQA's common sense exemption, as it can be seen with certainty that there is no possibility that the enactment of the Ordinance will have a significant effect on the environment. (Cal.Code Regs., tit. 14, § 15062, subd.(b)(3).)

B. Declaration of Purpose and Facts Constituting Urgency.

1. Purposes:

The purposes of this Ordinance are:

- a. To prevent adolescents from becoming addicted to nicotine;
- b. To prevent serious lung injury and death related to vaping use;
- c. To prevent minors from illegally accessing flavored vaping products and certain flavored vaping products paraphernalia; and
- d. To counter the long-term health effects and related health care costs associated with nicotine use.

2. Facts Constituting the Urgency.

- a. The Food and Drug Administration and U.S. Surgeon General consider the increase in use of flavored tobacco products in e-cigarettes, vapes, etc. to be an epidemic. A new generation of adolescents who would not have used traditional cigarettes are now getting introduced – and potentially addicted – to nicotine through vaping.
- b. Recently e-cigarette use by young people has skyrocketed. Nationally, between 2017-2018, e-cigarette use by high school students increased 78 percent and use by middle school students increased almost 50 percent. (Centers for Disease Control and Prevention.) Locally, the popularity of e-cigarette use has reached record proportions: in 2016 e-cigarette use among 11th graders was one in five; in 2018 that number went up to three in five.
- c. Manufacturers and retailers target youth with more than 7,000 flavors that have not been tested for safety when inhaled, including bubble gum, grape, menthol and cotton candy, and include e-cigarettes, hookah tobacco, cigars and smokeless tobacco. Heating the flavors to aerosolize them can change what is in them, producing chemicals that can be toxic and potentially carcinogenic. When heated, the two main solvents found in e-liquids, propylene glycol and glycerin, also contribute toxicity to the plume that reaches the lungs. Recent studies have linked vaping to severe lung injury.
- d. The Centers for Disease Control and Prevention report that nationwide, as of November 20, 2019, there have been 47 confirmed deaths (four in California) among 2,290 lung injuries associated with the use of e-cigarettes and vaping.

C. Urgency Ordinance. This Ordinance is adopted as an urgency Ordinance pursuant to the provisions of Government Code sections 25123 and 25131 and shall be effective immediately upon adoption. Based on the Declaration of Purpose and Facts Constituting Urgency set forth above in Section 1.B. of this Ordinance, the Board of Supervisors finds and determines that the adoption of this Ordinance as an urgency Ordinance is necessary for the immediate preservation of the public health and safety to address critical public health and safety conditions in Ventura County.

SECTION 2. Applicability

This Ordinance applies throughout the unincorporated area of Ventura County, in all Ventura County buildings, whether owned, leased or controlled by the County, and on all County property within the cities in Ventura County.

SECTION 3. Definitions

The following terms are defined for purposes of this Ordinance:

- a. "Electronic smoking device" means an electronic device which can be used to deliver an inhaled dose of nicotine or other substances, including any component, part or accessory of such a device, whether manufactured, distributed, delivered or sold as an electronic cigarette, electronic cigar or cigarillo, electronic pipe, electronic hookah, vaping device or any other product name or descriptor.
- b. "Flavored vaping products" means any product containing flavored nicotine or other flavored substances, made or derived from flavored nicotine or other flavored substances, whether natural or synthetic, that is intended for human consumption and is heated, inhaled, smoked, snorted or sniffed through an electronic smoking device. "Flavored vaping products" does not include tobacco-only flavored vaping products.
- c. "Flavored vaping products paraphernalia" means any electronic smoking device that exclusively delivers flavored nicotine or other flavored substances, excluding tobacco-only flavored substances, together with any accessory, part or component of such a device and any other item designed or used exclusively for the inhalation or ingestion of flavored vaping products.
- d. "Flavored vaping products retailer" means any person who sells, offers to sell, exchanges or offers to exchange for any form of consideration flavored vaping products or flavored vaping products paraphernalia without regard to the quantity sold, offered for sale, exchanged or offered for exchange.
- e. "Person" means any natural person, entity, firm, corporation, organization, company, association, business, estate, trust, joint-stock organization, partnership, joint-venture or club or the agent, servant, manager, officer, employee or lessee of any of them.

SECTION 4. Prohibition

Notwithstanding any other provision of the Ventura County Ordinance Code or the uncodified ordinances of Ventura County, no person or flavored vaping products retailer, or its agents or employees, shall sell or exchange or offer for sale or exchange, or possess with the intent to sell or exchange or offer for sale or exchange, any flavored vaping products or any flavored vaping products paraphernalia in the unincorporated area of Ventura County, in all County buildings, whether owned, leased or otherwise controlled by the County, and on all County property within the cities in Ventura County.

SECTION 5. Any person or flavored vaping products retailer who violates Section 4 of this Ordinance is guilty of a misdemeanor/infracton, which is enforceable pursuant to the Ventura County Ordinance Code, sections 13 through 13-4.

SECTION 6. Effective Date. In light of the Findings and Declarations in Section 1 of this Ordinance, the Board of Supervisors declares that this Ordinance is necessary as an urgency measure for the immediate preservation of the public health and safety. This Ordinance shall take effect and be operative on December 10, 2019.

PASSED AND ADOPTED this 10th day of December, 2019, by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

ABSENT: Supervisors _____

CHAIR, BOARD OF SUPERVISORS
COUNTY OF VENTURA

ATTEST:

MICHAEL POWERS
Clerk of the Board of Supervisors
County of Ventura, State of California

By: _____
Deputy Clerk of the Board