

ORDINANCE NO. _____, SERIES 2014

..Title

AN ORDINANCE RELATING TO THE SALE OF ELECTRONIC CIGARETTES ("E-CIGARETTES") OR E-CIGARETTE ACCESSORIES TO MINORS.

..Body

Sponsored By: Councilmembers Woolridge, Aubrey-Welch and Parker

WHEREAS, according to the United State Food and Drug Administration ("FDA"), Electronic cigarettes, also known as "e-cigarettes," are battery-operated products designed to deliver nicotine, flavor and other chemicals. E-Cigarettes turn chemicals, including highly addictive nicotine which is derived from tobacco, into an aerosol that is inhaled by the user; and

WHEREAS, most e-cigarettes are manufactured to look like conventional tobacco products such as cigarettes, cigars, or pipes, and some e-cigarettes resemble everyday items such as pens and USB memory sticks; and

WHEREAS, only e-cigarettes that are marketed for therapeutic purposes are currently regulated by the FDA Center for Drug Evaluation and Research ("CDER") and there are currently no e-cigarettes approved by FDA for therapeutic purposes, and the FDA intends to issue in the near future, a proposed rule extending FDA's tobacco product authorities to include other tobacco products like e-cigarettes.

WHEREAS, the Centers for Disease Control and Prevention through studies have concluded that herbal shisha and the corollary smoke therefrom contain carbon monoxide and other toxic agents known to increase the risks for smoking-related cancers, heart disease, and lung disease; and

WHEREAS, Louisville Metro Government perceives the use of e-cigarettes by person who are minors to be a threat to the health and safety of minors, and it is the

intent of Louisville Metro Government to undertake steps to regulate the sale of e-cigarettes and e-cigarette products and accessories to minors.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: LMCO Chapter 90.02 is hereby amended as follows:

“E-cigarette”-A product that is designed to, when heated, convert its contents into a vapor form that delivers nicotine or other substances to a user. Said product may be composed of a rechargeable, battery-operated heating element, a replaceable cartridge, and an atomizer that converts the contents of the cartridge into a vapor.

“E-cigarette Accessories”-Any fitment, add-on, auxiliary or attachment type device that is designed to be utilized in conjunction with or during the usage of an E-cigarette.

“Herbal Shisha”-a non-tobacco product, which its primary intended use by the producer, manufacturer or seller of such product, is to be smoked in a waterpipe, which may be commonly referred to or known as a hookah, narghile or shisha.

“Minor”-A natural person who is under eighteen (18) years of age.

“Retailer”-Any person, firm, partnership or corporation engaged in the business of buying, selling or merchandising products and/or services for profit.

SECTION II: New sections of LMCO Chapter 90 are hereby created as follows:

§ 90.10 Prohibiting Retailers from Selling or Distributing E-Cigarettes to Minors

(A) No minor shall use, consume, purchase or possess any E-cigarette or Herbal Shisha.

(B) No retailer shall sale, offer to sale or distribute to any minor within the boundaries of Louisville Metro, any E-cigarette, E-cigarette accessories, or Herbal Shisha.

SECTION III: LMCO Chapter 90.07(D) is hereby created as follows:

(D) The Civil Penalty for a violation of § 90.10(A) is as follows:

(1) A penalty of no less than \$50 for the first offense within a one-year period;

(2) A penalty of no less than \$100 for the second offense within a one-year period;

(3) A penalty of no less than \$250 for the third and each subsequent offense within a one-year period.

SECTION IV: LMCO Chapter 90.07(E) is hereby created as follows:

(E) The Civil Penalty for a violation of § 90.10(B) is as follows:

(1) A penalty of no less than \$500 for each offense.

SECTION V: This Ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

Jim King
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____