

CITY OF PORT WASHINGTON, WISCONSIN

Ordinance No. 2018 - 10

**Regulating the Sale, Gift, Possession and Use of
Nicotine Products, Vapor Products and Electronic Smoking Devices**

WHEREAS, the purported benefits from electronic smoking devices (commonly known as e-cigarettes, e-pipes and other trade and brand names) which contain nicotine products as a potentially less harmful alternative to smoking cigarettes have not been scientifically proven, and use of those devices has not been proven safe for their users or for non-users who inhale secondhand smoke; and

WHEREAS, electronic smoking devices and vapor products are marketed in numerous flavors which appeal to children, including candy flavors, and such devices may resemble pens or USB data storage drives which children commonly bring into and use within a school environment; and

WHEREAS, research has identified known health risks to child health and development associated with use of electronic smoking devices and vapor products, including findings that: adolescents who likely would not have smoked tobacco cigarettes are using e-cigarettes, and such adolescents are six times more likely as those who have never used electronic cigarettes to later begin smoking tobacco; nicotine from e-cigarettes can cause cancer in mice, and e-cigarette smoke may contribute to lung and bladder cancer, as well as heart disease, in humans; and e-cigarettes can potentially release unsafe amounts of toxic metals such as lead, chromium, manganese and/or nickel in its vapors, which users inhale; and

WHEREAS, based upon the foregoing the Common Council finds it necessary to regulate the sale, gift, possession and use of electronic smoking devices, vapor products, and nicotine products to protect the public health, safety and general welfare of the people of the City of Port Washington,

THEREFORE, the Common Council of the City of Port Washington do ordain as follows:

Section 1. Section 11.125.000, Municipal Code of the City of Port Washington is created as follows:

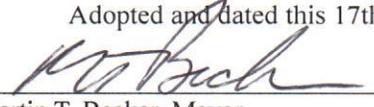
11.125.000 **NICOTINE PRODUCTS, VAPOR PRODUCTS AND ELECTRONIC SMOKING
DEVICES PRODUCTS REGULATED**

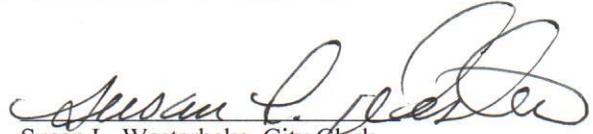
- A. **Definitions.** As used hereinbelow, the following terms shall have the meanings indicated:
1. **“Cigarette”** has the meaning given in sec. 139.30(1m), Wis. Stat.
 2. **“Electronic smoking device”** means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. Electronic smoking device includes any components and parts of such product, whether or not sold separately including, without limitation, nicotine-containing e-liquids, a glass or plastic vial container of e-liquid, cartridges, atomizers, batteries, cartomizers, clearomizers, digital display or lights to adjust settings, tank systems, drip tips and flavorings.
 3. **“Nicotine product”** means a product that contains nicotine and is not any of the following:
 - (a) a tobacco product, as defined in sec. 139.75(12), Wis. Stat.
 - (b) a cigarette.
 - (c) a product that has been approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.
 4. **“School”** means a public, parochial, private, or tribal school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

5. **"Smoke" or "Smoking"** means the act of inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation including, without limitation, hookahs and marijuana, whether natural or synthetic, in any manner or form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking set forth in this section.
6. **"Vapor products"** means noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" includes, without limitation, any vapor cartridge, solution, or other container or form, with or without nicotine, that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- B. **Restrictions on Sale or Gift of Nicotine Products to Persons Under 18 Years of Age.** Except as modified by this section, sec. 134.66, Wis. Stats. (as amended from time to time) relating to restrictions on the sale or gift of nicotine products to persons under the age of 18, is hereby adopted by reference as though set forth herein.
- C. **Purchase or Possession of Nicotine Products by Persons Under 18 Years of Age Prohibited.** Except as modified by this section, sec. 254.92, Wis. Stat. (as amended from time to time), prohibiting, with certain exceptions, the purchase, attempted purchase, or possession of nicotine products by persons under the age of 18, and prohibiting the purchase of nicotine products by persons on behalf of or to provide to persons under the age of 18, is hereby adopted by reference as though set forth herein.
- D. **Possession or Use of Nicotine Products, Vapor Products or Electronic Smoking Devices by Persons Under Age 18 Prohibited within City; School Buildings, Grounds and Activities.** No person under the age of 18 shall possess, smoke, or otherwise use any nicotine product, vapor product, or electronic smoking device within the City including, without limitation, inside any building owned, leased or used by a school; on any school grounds; while attending or participating in a school event or activity; or at an educational facility as defined in sec. 101.123(1), Wis. Stat.
- E. **Use of Nicotine Products, Vapor Products or Electronic Smoking Devices in School Buildings, on School Grounds or at School Activities Prohibited.** No person shall smoke or otherwise use any nicotine product, vapor product, or electronic smoking device inside any building owned, leased or used by a school; on any school grounds; while attending or participating in a school event or activity; or at an educational facility as defined in sec. 101.123(1), Wis. Stat.
- F. **Possession or Use of Nicotine Products, Vapor Products or Electronic Smoking Devices In or Upon City Building Premises Prohibited.** No person shall possess, smoke, or otherwise use any nicotine product, vapor product or electronic smoking device in or upon any building premises owned, leased or used by the City.
- G. **Sale or Gift of Vapor Products or Electronic Smoking Device to Persons Under 18 Years of Age Prohibited.** Consistent with secs. 134.66 and 254.92, Wis. Stat., no person shall sell, or provide for no or nominal consideration, any vapor product or electronic smoking device to persons under the age of 18.
- H. **Penalties.** Any person who violates subsections D., E., F. or G. shall be subject to a forfeiture of not less than \$100.00 or more than \$500.00 for each violation.

Section 2. This ordinance shall take effect upon adoption and publication as provided by law.

Adopted and dated this 17th day of April, 2018.


Martin T. Becker, Mayor


Susan L. Westerbeke, City Clerk