

CITY OF LAVON, COLLIN COUNTY TEXAS

ORDINANCE NO: 2014-06-02

Nicotine

AN ORDINANCE OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS: PROHIBITING THE POSSESSION OR CONSUMPTION OF NICOTINE, NICOTINE DERIVATIVE OR SIMULATED NICOTINE BY MINORS; PROHIBITING THE SALE OF NICOTINE, NICOTINE DERIVATIVE OR SIMULATED NICOTINE TO MINORS; PROVIDING A PENALTY PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Council of the City of Lavon recognizes with the advent of E-cigarettes there is a need to prohibit the use of nicotine and similar products by minors; and

WHEREAS, City Council of the City of Lavon recognizes with the advent of E-cigarettes there is a need to prohibit the sale of nicotine and similar products to minors; and

WHEREAS, City Council of the City of Lavon believes it is in the best interest of the citizens and visitors to the City, to enact regulations governing the possession, consumption or sale of nicotine and similar products to minors;

NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. FINDINGS

1. The City Council of the City of Lavon finds that the above foregoing recitals are true and correct and are hereby incorporated for all purposes as official findings of the City Council of the City of Lavon.

SECTION 2. POSSESSION, PURCHASE, CONSUMPTION, OR RECEIPT OF ITEM CONTAINING NICOTINE, NICOTINE DERIVATIVE OR SIMULATED NICOTINE BY MINORS PROHIBITED.

(a) An individual who is younger than 18 years of age commits an offense if the individual:

- (1) possesses, purchases, consumes, or accepts an item containing nicotine, nicotine derivative or simulated nicotine; or
- (2) falsely represents himself or herself to be 18 years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the

individual's own age in order to obtain possession of, purchase, or receive an item containing nicotine, nicotine derivative or simulated nicotine.

(b) It is an exception to the application of this section that the individual younger than 18 years of age possessed the item containing nicotine, nicotine derivative or simulated nicotine in the presence of:

- (1) an adult parent, a guardian, or a spouse of the individual; or
- (2) an employer of the individual, if possession or receipt of the item containing nicotine, nicotine derivative or simulated nicotine is required in the performance of the employee's duties as an employee.

(c) It is an exception to the application of this section that the individual younger than 18 years of age is participating in an inspection or test of compliance in accordance with City or State law.

SECTION 3. SALE OF ITEMS CONTAINING NICOTINE, NICOTINE DERIVATIVE OR SIMULATED NICOTINE TO PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED; PROOF OF AGE REQUIRED.

(a) A person commits an offense if the person, with criminal negligence:

- (1) sells, gives, or causes to be sold or given an item containing nicotine, nicotine derivative or simulated nicotine to someone who is younger than 18 years of age; or
- (2) sells, gives, or causes to be sold or given an item containing nicotine, nicotine derivative or simulated nicotine to another person who intends to deliver it to someone who is younger than 18 years of age.

(b) If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which items containing nicotine, nicotine derivative, simulated nicotine, cigarettes or tobacco products are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.

(c) An offense under this section is a Class C misdemeanor.

(d) It is a defense to prosecution under Subsection (a)(1) that the person to whom the item containing nicotine, nicotine derivative or simulated nicotine was sold or given presented to the defendant apparently valid proof of identification.

(e) A proof of identification satisfies the requirements of Subsection (d) if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 18 years of age or older, and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport, or an identification card issued by a state or the federal government.

SECTION 4. SALE OF ITEMS CONTAINING NICOTINE, NICOTINE DERIVATIVE OR SIMULATED NICOTINE PRODUCTS TO PERSONS YOUNGER THAN 27 YEARS OF AGE.

(a) A person may not sell, give, or cause to be sold or given an item containing nicotine, nicotine derivative or simulated nicotine to someone who is younger than 27 years of age unless the person to whom the an item containing nicotine, nicotine derivative or simulated nicotine was sold or given presents an apparently valid proof of identification.

(b) A retailer shall adequately supervise and train the retailer's agents and employees to prevent a violation of Subsection (a).

(c) A proof of identification described by Section 3(e) satisfies the requirements of Subsection (a).

SECTION 5. PENALTY

1. On the first offense any person found to be violating any provision of Section 2 shall be deemed guilty of a Class C misdemeanor and upon conviction shall pay a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00).

2. Upon a second conviction, any person found violating any provision of Section 2 shall be deemed guilty of a Class C misdemeanor and shall pay a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00).

3. Upon a third or subsequent conviction, any person found violating any provision of Section 2 shall be deemed guilty of a Class C misdemeanor and shall pay a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00).

4. On the first offense any person found to be violating any provision of Section 3 or Section 4 shall be deemed guilty of a Class C misdemeanor and upon conviction shall pay a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1000.00).

5. Upon a second or subsequent conviction, any person found violating any provision of Section 3 or Section 4 shall be deemed guilty of a Class C misdemeanor and shall pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00).

SECTION 6. SEVERBILITY

It is hereby declared by the City Council of the City of Lavon that if any of the sections, paragraphs, sentences, clauses or phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of

competent jurisdiction, such event shall not affect any remaining the sections, paragraphs, sentences, clauses or phrases of this ordinance.

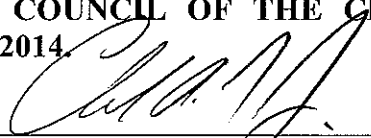
SECTION 7. PUBLIC MEETING

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

SECTION 8. EFFECTIVE DATE

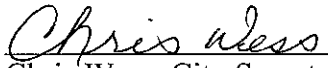
This ordinance shall be in full force and effect from and after its passage and publication and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS ON THIS 3rd DAY OF JUNE, 2014.



The Honorable Charles Teske, Mayor

Attest:



Chris Wess, City Secretary

