

ORDINANCE NO: 15 -2020  
INTRODUCED BY: Lentine

**AN ORDINANCE ENACTING NEW SECTION 537.19, "PROHIBITING JUVENILE FROM POSSESSING, USING, PURCHASING OR RECEIVING AN ELECTRONIC SMOKING DEVICE," OF THE CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY.**

WHEREAS, the use of electronic smoking devices by children is a national crisis;

According to statements appearing on the website of the federal Center for Disease Control and Prevention ("CDC");

The use of e-cigarettes is unsafe for kids, teens, and young adults;

Most e-cigarettes contain nicotine, which is highly addictive and can harm adolescent brain development early and into the mid-20s;

E-cigarettes can contain other harmful substances besides nicotine;

E-cigarettes produce an aerosol by heating a liquid that usually contains nicotine, flavorings, and other chemicals that help to make the aerosol;

Users inhale e-cigarette aerosol into their lungs and bystanders can also breathe in this aerosol when the user exhales it into the air;

Most e-cigarettes contain nicotine—the addictive drug in regular cigarettes, cigars, and other tobacco products;

A recent CDC study found that 99% of the e-cigarettes sold in venues in the United States assessed by the CDC contained nicotine;

Some e-cigarette labels do not disclose that they contain nicotine, and some e-cigarettes marketed as containing 0% nicotine have been found to contain nicotine;

Nicotine can harm the developing adolescent brain, which keeps developing until about age 25;

Using nicotine in adolescence can harm the parts of the brain that control attention, learning, mood, and impulse control;

Each time a new memory is created or a new skill is learned, stronger connections – or synapses – are built between brain cells; and young people's brains build synapses faster than adult brains. Nicotine changes the way these synapses are formed;

Using nicotine in adolescence may also increase risk for future addiction to other drugs;

Widespread advertising for these products, including via media for which advertising for conventional tobacco products is prohibited (e.g., TV), and the lower costs of some of these products relative to conventional cigarettes has contributed to the increase in e-cigarette use among youth;

Many youth also report using e-cigarettes because they are curious about these new products and because they believe these products to be less harmful than conventional cigarettes;

Many young people who use e-cigarettes also smoke cigarettes;

Specifically, a 2018 National Academy of Medicine report found that there was some evidence that e-cigarette use increases the frequency and amount of cigarette smoking in the future;

E-cigarettes also can be used to deliver other drugs, including marijuana; in 2016, approximately one-third of U.S. middle and high school students who have ever used an e-cigarette reported using marijuana in the device;

E-cigarette use among young people is unsafe, even if they do not progress to future cigarette smoking;

Unsurprisingly, the American Lung Association ("ALA") has issued one of the most definitive statements on the use of e-cigarettes, as follows: "E-cigarettes are not safe and can cause irreversible lung damage and lung disease," ALA president Harold Wimmer said in a statement. "No one should use e-cigarettes or any other tobacco product."

WHEREAS, this Council wishes to enact regulations prohibiting juveniles from possessing, using, purchasing or receiving an electronic smoking device in the City to protect the public health, safety and general welfare of the City and its inhabitants;

NOW, THEREFORE, Be it Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1. New Section 537.19, "Prohibiting Juvenile from Possessing, Using, Purchasing or Receiving an Electronic Smoking Device," of Part Five, "General Offenses Code," of the Codified Ordinances of the City of Richmond Heights, Ohio is hereby enacted to read in its entirety as follows:

**"PROHIBITING JUVENILE FROM POSSESSING, USING, PURCHASING OR RECEIVING AN ELECTRONIC SMOKING DEVICE.**

(a) As used in this section:

- (1) "Juvenile" means a person who is under eighteen (18) years of age;
- (2) "Electronic Smoking Device" means any electronic delivery device and product

containing or delivering nicotine, lobelia or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic smoking device shall include any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic Smoking Device shall not include any product that has been approved or otherwise certified by the U.S. Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

(3) "Detained" means the temporary care of a juvenile pending Juvenile Court adjudication or disposition, or execution of a Juvenile Court order, in a public or private facility designed to physically restrict the movement and activities of a juvenile.

(4) "Youth Smoking Education Program" means a private or public agency that is related to tobacco use, prevention, and cessation, that is carried out or funded by the Ohio Department of Health pursuant to Section 3701.84 of the Ohio Revised Code, that utilizes educational methods focusing on the negative health effects of smoking and using tobacco products, and that is not more than twelve hours in duration.

(b) No juvenile shall do any of the following unless accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the juvenile:

- (1) Use, consume or possess an Electronic Smoking Device;
- (2) Purchase or attempt to purchase an Electronic Smoking Device;
- (3) Order, pay for, or share the cost of an Electronic Smoking Device; or

(4) Except as provided in subsection (e) of this section, accept or receive an Electronic Smoking Device.

(c) No juvenile shall knowingly furnish false information concerning that juvenile's name, age, or other identification for the purpose of obtaining an Electronic Smoking Device.

(d) A Juvenile Court shall not adjudicate a juvenile a delinquent or unruly child for a violation of subsection (b)(1), (2), (3), or (4) or (c) of this Section.

(e) (1) It is not a violation of subsection (b)(4) of this Section for a juvenile to accept or receive an Electronic Smoking Device if the juvenile is required to do so in the performance of the juvenile's duties as an employee of that juvenile's employer and the juvenile's acceptance or receipt of an Electronic Smoking Device occurs exclusively within the scope of the juvenile's employment.

(2) It is not a violation of subsection (b)(1), (2), (3), or (4) of this Section if the juvenile possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives an Electronic Smoking Device, while participating in an inspection or compliance check conducted by a federal, state, local, or corporate entity at a location at which Electronic Smoking Devices are sold or distributed.

(3) It is not a violation of subsection (b)(1) or (4) of this Section for a juvenile to accept, receive, use, consume, or possess an Electronic Smoking Device while participating in a research protocol if all of the following apply:

A. The parent or legal guardian of the juvenile has consented in writing to the juvenile participating in the research protocol.

B. A review board sanctioned by the appropriate federal or state agency, or an equivalent entity, has approved the research protocol.

C. The juvenile is participating in the research protocol at the facility or location specified in the research protocol.

(f) If a Juvenile Court finds that a juvenile violated subsection (b)(1), (2), (3), (4) or (c) of this Section, the court may do any or all of following:

- (1) Require the juvenile to attend a youth smoking education program or other smoking treatment program approved by the court, if one is available;
- (2) Require the juvenile to perform not more than ten (10) hours of community service; and/or
- (3) Impose a fine of not more than one hundred dollars (\$100.00);

(g) If a juvenile disobeys a Juvenile Court order issued pursuant to subsection (f) of this Section, the court may do any or all of the following:

- (1) Increase the fine imposed upon the juvenile under subsection (f)(3) of this Section;
- (2) Require the juvenile to perform an additional twenty (20) hours of community service; and/or
- (3) Suspend for a period of thirty (30) days the temporary instruction permit, probationary driver's license, or driver's license issued to the juvenile.

(h) A juvenile alleged or found to have violated subsection (b) or (c) of this Section shall not be detained under any provision of this Chapter or any other provision of the Revised Code."

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare of the City, its residents and visitors, so as to be able to immediately enforce new provisions of the General Offenses Code prohibiting a juvenile from possessing, using, purchasing or receiving an electronic smoking device in the City for the best interests of the health of the juvenile and persons close to the juvenile; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: March 10, 2020

  
David H. Roche, Mayor

APPROVED: March 10, 2020

ATTEST: Betsy Trahen  
Betsy Trahen  
Clerk of Council

  
Eloise Cotton-Henry  
President of Council