

Introduced: March 25, 2019

Adopted: April 8, 2019

Effective: April 28, 2019

**CITY OF CHARLOTTE
ORDINANCE NO. 2019-03**

AN ORDINANCE TO AMEND ARTICLE VI, OFFENSES AGAINST PUBLIC MORALS, OF CHAPTER 34 - OFFENSES - BY ADDING SECTIONS 34-226, DEFINITIONS, 34-227, POSSESSION, ATTEMPT TO POSSESS, AND/OR USE OF A VAPOR OR ALTERNATIVE NICOTINE PRODUCT BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE, 34-228, FALSE IDENTIFICATION TO OBTAIN OR ATTEMPT TO OBTAIN AND/OR PURCHASE A VAPOR OR ALTERNATIVE NICOTINE PRODUCT BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE, AND 34-229, FURNISHING A VAPOR OR ALTERNATIVE NICOTINE PRODUCT TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE.

Councilmember Russo moved the following:

THE CITY OF CHARLOTTE ORDAINS:

Section 34-226 shall be added to Article VI, Chapter 34, as follows:

§34-226: DEFINITIONS. The following words, terms and phrases when used in Section 34-227 - 34-229, shall have the meaning ascribed to them in this section.

ALTERNATIVE NICOTINE PRODUCT. A noncombustible product containing nicotine that is intended for human consumption in any form, including but not limited to chewing, absorption, dissolving or ingesting by any other means.

DILIGENT INQUIRY. A good faith effort to determine the age of the person, which includes at least an examination of an official operator's or chauffeur's license, an official personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

VAPOR PRODUCT: A noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes, but is not limited to: an electronic cigarette, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or

other form that is intended to be used with or in an electronic cigarette, electronic cigarillo, electronic pipe, or similar product or device.

Section 34-227 shall be added to Article VI, Chapter 34, as follows:

§34-227: POSSESSION, ATTEMPT TO POSSESS AND/OR USE OF A VAPOR OR ALTERNATIVE NICOTINE PRODUCT BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE PROHIBITED.

(A) A person under eighteen (18) years of age shall not possess, attempt to possess and/or use a vapor or alternative nicotine product.

(B) A person who violates this section is responsible for a civil infraction with a fine of no more than \$50.00.

(C) Subsection (A) does not apply to a person participating in any of the following:

(1) An undercover operation in which the minor purchases or receives a vapor or alternative nicotine product under the direction of the minor's employer and with the prior approval of the City of Charlotte Police Chief as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives a vapor or alternative vapor product under the direction of a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the vapor or alternative vapor product by the minor was not under the direction of a local police agency and was not part of the undercover operation.

(3) The handling or transportation of a vapor or alternative vapor product by a minor under the terms of that minor's employment.

Section 34-228 shall be added to Article VI, Chapter 34, as follows:

§34-228: FALSE IDENTIFICATION TO OBTAIN OR ATTEMPT TO OBTAIN AND/OR PURCHASE A VAPOR OR ALTERNATIVE NICOTINE PRODUCT BY PERSONS UNDER EIGHTEEN (18) YEARS OF AGE.

(A) A person under eighteen (18) years of age shall not obtain, purchase, or attempt to obtain or purchase a vapor or alternative vapor product from another person or any agent or employee of an establishment which sells or furnishes vapor or alternative nicotine products by furnishing or using any false, fraudulent or misleading verbal or written information identifying the person as another person or falsely misrepresenting a material fact about the person, including but not limited to the person's date of birth or correct spelling of their full name.

(B) A person who violates this section is guilty of a misdemeanor, punishable by a

maximum of 90 days in jail and up to a \$500.00 fine.

Section 34-229 shall be added to Article VI, Chapter 34, as follows:

§34-229: FURNISHING A VAPOR OR ALTERNATIVE NICOTINE PRODUCT TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE.

(A) A vapor or alternative nicotine product shall not be sold, offered for sale, offered, given or furnished to a person under eighteen (18) years of age. A diligent inquiry as to whether a person buying or receiving a vapor or alternative nicotine product is under eighteen (18) years of age shall be made prior to the sale, offer of sale, offer of, giving or furnishing of such product.

(B) A person who violates subsection (A) by knowingly selling, offering for sale, offering, giving or furnishing a vapor or alternative nicotine product to a person under eighteen (18) years of age, or by failing to make a diligent inquiry as to whether the person is under eighteen (18) years of age is guilty of a misdemeanor, punishable by a maximum of 90 days in jail and up to a \$500.00 fine.

(C) A person who sells a vapor product or alternative nicotine product at retail shall post a sign in a conspicuous place in each room of the establishment that includes the following statement: The purchase of a vapor product or alternative nicotine product by a minor under eighteen (18) years of age is prohibited by law. A minor unlawfully purchasing or using a vapor or alternative nicotine product is subject to a fine.

(D) A person or establishment that is in violation of Section (C) shall be responsible for a civil infraction with a fine of not more than \$250.00.

This ordinance shall become effective 20 days after adoption and that the above ordinance be passed to a second reading.

Second, Baker. Carried (6) Yeas. (Baker, Russo, Mitchell, Lewis, Dyer, Christian) (0) Nays. 1 Absent (Ridge)

Dated: April 9, 2019

Timothy M. Lewis, Mayor

Ginger Terpstra, Clerk