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ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2013-17

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA, ESTABLISHING CHAPTER 67 OF  
THE ALACHUA COUNTY CODE PERTAINING TO THE SALE AND  
USE OF E-CIGARETTES AND LIQUID NICOTINE; PROVIDING  
FINDINGS IN SUPPORT OF THE ADOPTION OF THE ORDINANCE;  
PROVIDING FOR SEVERABILITY; PROVIDING EFFECTIVE DATES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA:

SECTION 1. Chapter 67 of the Alachua County Code is hereby created and entitled,  
“Sale and Use of E-Cigarettes and Liquid Nicotine”, which shall read in its entirety as follows:

**Sec. 67.01. Declaration of policy; legislative findings.**

It is hereby ascertained, determined and declared that:

1. The Board of County Commissioners is concerned about a potential public health crisis caused by the use of e-cigarettes and by passage of this Ordinance intends to implement measures to curb the use of e-cigarettes until reliable scientific studies and data are available on the potential health risks to e-cigarette users and the impact of secondhand emissions caused by the use of e-cigarettes.

2. The dangers posed by tobacco are not limited to cigarettes, pipes or other traditional forms of smoking.

3. New, unregulated high-tech smoking devices, commonly referred to as electronic cigarettes or e-cigarettes, have recently been made available to consumers. These devices closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid created through an electronic heating system. The vapors are expelled via a cartridge that usually contains a concentration of pure nicotine. The cartridge and heating element are housed in a device that is typically created to look exactly like a traditional cigarette, cigar or pipe. After inhaling, the user then blows out the heated vapors producing a “cloud” of undetermined substances that is virtually indistinguishable from traditional cigarettes, cigars and pipes.

1           4.     Nicotine is one of the most highly addictive substances available for public  
2 consumption.

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4           5.     The manufacturers and marketers of e-cigarettes advertise their products as safe  
5 nicotine delivery devices and smoking cessation modalities.

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7           6.     The FDA has not approved the use of e-cigarettes as smoking cessation devices.

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9           7.     The FDA has publicly expressed concerns over the safety of these devices.

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11          8.     Studies show that adolescents can become addicted to nicotine after ingesting the  
12 equivalent of 20 traditional cigarettes, the amount traditionally available in a single pack. The  
13 appeal created by the flavored e-cigarette can lead young people into a lifetime of nicotine  
14 addiction.

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16          9.     The nicotine content in e-cigarettes is unknown and unspecified and presents a  
17 significant risk of addiction.

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19          10.    Other governments and public health organizations have joined the FDA in  
20 speaking out about the potential dangers posed by e-cigarettes. These entities are also calling on  
21 e-cigarette manufacturers to discontinue their safety claims until these products have been  
22 independently tested, including definitive studies on the potential harm of secondhand e-cigarette  
23 emissions. These groups include the World Health Organization and the Canadian government's  
24 FDA equivalent, the Health Products and Food Branch Inspectorate.

25  
26          11.    Every year tobacco products siphon off more than \$268 billion in directly related  
27 healthcare and lost worker productivity costs and lead to the deaths of almost one-half million  
28 Americans.

29  
30          12.    Protecting Alachua County residents against an untested nicotine product like e-  
31 cigarettes represents sound public health and fiscal policy. The purpose of this ordinance is to  
32 ban the sale of e-cigarettes and like products in Alachua County to persons under the age of 18,  
33 to prohibit the use of e-cigarettes and like products in public places where traditional forms of  
34 smoking are already disallowed, and to prohibit self-service merchandising in the retail sale of e-  
35 cigarettes and like products in order to minimize the physical accessibility of e- cigarettes and  
36 like products to minors.

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38 **Sec. 67.02. Definitions.**

39           For the purpose of this article, the following words and terms shall have the meanings  
40 given herein:

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42           *County* means Alachua County, Florida.

1           *E-cigarette* means any electronic device composed of a mouthpiece, heating element,  
2 battery and electronic circuits that provides a vapor of liquid nicotine and/or other substances to  
3 the user that he or she inhales in simulation of smoking. This term shall include such devices  
4 whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.  
5

6           *Liquid nicotine* means any liquid product composed either in whole or part of pure  
7 nicotine and other substances and manufactured for use with e-cigarettes.  
8

9           *Open display unit*, in the context of the retail sale of e-cigarettes and liquid nicotine,  
10 means any device, furniture or furnishing within or upon which e- cigarettes or liquid nicotine are  
11 displayed to customers, and includes but is not limited to any case, rack, shelf, counter, table,  
12 desk, kiosk, booth, stand and other surface.  
13

14           *Person* means any natural person or artificial entity capable of suing and being sued in the  
15 State of Florida.  
16

17           *Self-service merchandising*, in the context of the retail sale of e-cigarettes and liquid  
18 nicotine, means the open display of e-cigarettes and liquid nicotine, whether packaged or  
19 otherwise, for direct retail customer access and handling prior to purchase without the  
20 intervention or assistance of the retailer or the retailer's owner, employee or agent. Such open  
21 display includes the use of an open display unit.  
22

23           *Smoking* means smoking as defined in Section 386.203, Florida Statutes, and any  
24 successor thereto.  
25

26           *Use of an e-cigarette* means the heating or ignition of an e-cigarette which creates a vapor  
27 of liquid nicotine and/or other substances which the user can inhale in simulation of smoking.  
28

29 **Sec. 67.03. Sale of e-cigarettes to minors prohibited.**

30           It is prohibited for any person to sell or offer for sale e-cigarettes or liquid nicotine within  
31 the County to a person under eighteen years of age.  
32

33 **Sec. 67.04. Use of an e-cigarette where smoking prohibited.**

34           The use of an e-cigarette is prohibited at all locations within the County at which smoking  
35 is prohibited under Chapter 386, Florida Statutes.  
36

37 **Sec. 67.05. Self-service merchandising prohibited.**

38           (a) No person engaged in the retail sale of e-cigarettes or liquid nicotine shall sell,  
39 permit to be sold, offer for sale, or display for sale e-cigarettes or liquid nicotine by means of  
40 self-service merchandising.  
41

42           (b) No person engaged in the retail sale of e-cigarettes or liquid nicotine shall place e-  
43 cigarettes or liquid nicotine in an open display unit unless the same is located in an area that is  
44 inaccessible to customers.  
45

1 **Sec. 67.06. Enforcement; penalties.**

2 A person committing an act prohibited under this article shall be guilty of an offense that,  
3 pursuant to Section 125.69, Florida Statutes, and any successor thereto, shall be prosecuted in the  
4 same manner as misdemeanors are prosecuted, and upon conviction, shall be punished by a fine  
5 not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail, not to exceed  
6 sixty (60) days, or by both such fine and imprisonment.

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8 **Sec. 67.07. Applicability.**

9 The provisions of this ordinance shall apply in the unincorporated areas of the County.

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11 **Sec. 67.08. Implementation Date.**

12 Section 67.03 (Sale of e-cigarettes to minors prohibited) of this ordinance shall take effect  
13 upon filing of this ordinance with the Department of State. Sections 67.04 (Use of an e-cigarette  
14 where smoking prohibited) and 67.05 (Self service merchandising prohibited) of this ordinance  
15 shall be effective on July 1, 2014.

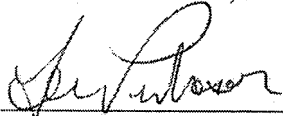
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17 SECTION 2. Severability. If any section, phrase, sentence or portion of this ordinance is  
18 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such  
19 portion shall be deemed a separate, distinct, and independent provision, and such holding shall  
20 not affect the validity of the remaining portions hereof.

21 SECTION 3. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of  
22 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions  
23 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of  
24 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to  
25 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"  
26 or other appropriate designation. The correction of typographical errors which do not affect the  
27 intent of the ordinance may be authorized by the County Manager or designee without public  
28 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

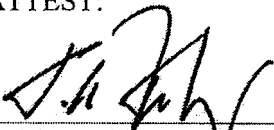
1 SECTION 4. Effective Date. A certified copy of this ordinance shall be filed with the  
2 Department of State by the Clerk of the Board of County Commissioners within ten (10) days  
3 after enactment by the Board of County Commissioners, and shall take effect upon filing with the  
4 Department of State.

5 DULY ADOPTED in regular session, this 10<sup>th</sup> day of December, A.D., 2013.

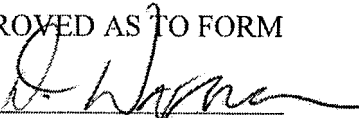
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8 BOARD OF COUNTY COMMISSIONERS  
9 OFALACHUA COUNTY, FLORIDA

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12 By:   
13 Lee Pinkoson, Chair

14 ATTEST:

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16  
17   
18 J.K. Irby, Clerk  
19 (SEAL)

20 APPROVED AS TO FORM

  
21 Alachua County Attorney