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## REMINDER

### NOTICE OF MEETING

#### CITY COUNCIL

**Dennis Fiorelli**  
*President*  
**Sara Continenza**  
**Joe Frank**  
**Marty Gelfand**  
**Jane Goodman**  
**Ruth Gray**  
**Jason Russell**

MEETING OF: **SAFETY COMMITTEE**

CALLED BY: MARTY GELFAND, CHAIRMAN

DATE: **March 11, 2019**

LOCATION: COMMITTEE/JURY ROOM

TIME: 7:00 P.M.

RE: ORD. 02-19 ILLEGAL  
DISTRIBUTION OF CIGARETTES OR  
OTHER TOBACCO PRODUCTS TO  
MINORS & ORD. 03-19 AMENDING  
SECTION 537.161 ILLEGAL  
DISTRIBUTION OF CIGARETTES.

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#### **COMMITTEE MEMBERS:**

DENNIS FIORELLI  
RUTH GRAY

#### **COUNCIL MEMBERS:**

SARA CONTINENZA  
JOE FRANK  
JANE GOODMAN  
JASON RUSSELL

#### **ADMINISTRATION:**

KEVIN NIETERT, POLICE CHIEF  
JOE MAYS, ASST. POLICE CHIEF

# City of South Euclid

**Division of Police**

1349 South Green Road  
South Euclid, Ohio 44121  
Phone: (216) 691 4250  
Fax: (216) 381 2074

## Departmental Correspondence

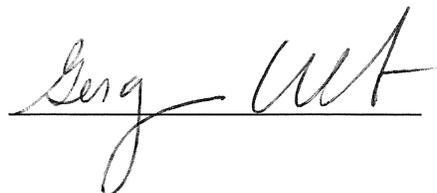
**Date:** January 29, 2019  
**To:** Mayor Georgine Welo  
**From:** Chief Kevin Nietert  
**Re:** **537.16 ILLEGAL DISTRIBUTION OF CIGARETTES OR OTHER  
TOBACCO PRODUCTS TO MINORS AND 537.161 ILLEGAL  
DISTRIBUTION OF CIGARETTES**

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*Nature of Legislation:* Amend ordinance 537.16 Illegal Distribution of Cigarettes or Other Tobacco Products to Minors and 537.161 Illegal Distribution of Cigarettes

*Reason Legislation Proposed:* At that time alternative nicotine products such as electronic cigarettes were not taken into consideration. As society evolves so should our ordinances. The changes proposed take into consideration alternative nicotine products.

Authorized by: \_\_\_\_\_



Date: \_\_\_\_\_

1-29-19

ORDINANCE NO.: 02-19  
 INTRODUCED BY: Fiorelli  
 REQUESTED BY: Mayor

February 11, 2019

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 537.16 "ILLEGAL DISTRIBUTION OF CIGARETTES OR OTHER TOBACCO PRODUCTS TO MINORS" OF CHAPTER 537 "OFFENSES AGAINST PERSONS" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO

WHEREAS, The Council of the City of South Euclid, Ohio desires to protect minors from the dangers of Alternative nicotine products and electronic cigarettes;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:  
Section 1: That Section 537.16 "Illegal Distribution of Cigarettes or other Tobacco Products to Minors" of Chapter 537 "Offenses Against Persons" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be amended as follows:

**"537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, ALTERNATIVE NICOTINE PRODUCTS, OR OTHER TOBACCO PRODUCTS TO MINORS.**

(a) Definitions. As used in this section:

- (1) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient.
- (2) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (3) "Sale" means delivery, barter, exchange, transfer or gift, or an offer thereof, and each transaction made by any person, whether as principal, proprietor, agent, servant or employee.
- (4) "Smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar, pipe or other device used to burn tobacco.
- (5) "Tobacco product" means the proceeds, yield or final form of anything made up wholly or in part of the genus of the plant known as nicotiana. Such products include, but are not limited to, cigars, pipe tobacco, chewing tobacco and snuff.
- (6) "Use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth, to derive the effects of tobacco.
- (7) "Vending machine" means any mechanical or electronic device designed to do both of the following:
  - A. Receive a coin, bill or token made for that purpose;
  - B. In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.

**(8) "Alternative Nicotine Product" means an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.**

**(9) "Electronic Cigarette" means any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.**

(b) Sale of Cigarettes, Alternative Nicotine Products and Tobacco Products to Minors.

- (1) No manufacturer, producer, distributor, wholesaler or retailer of cigarettes, **alternative nicotine products** or other tobacco products, or any agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, **alternative nicotine products** or other tobacco products, shall do any of the following:
  - A. Give, sell or otherwise distribute cigarettes, **alternative nicotine products** or other tobacco products to any person under eighteen years of age.
  - B. Give away, sell or distribute cigarettes, **alternative nicotine products** or other tobacco products in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, **alternative nicotine products** or other tobacco products to a person under eighteen years of age is prohibited by law.
- (2) No person shall sell or offer to sell cigarettes, **alternative nicotine products** or other tobacco products by or from a vending machine except in the following locations.
  - A. In an area either:
    1. Within a factory, business, office or other place not open to the general public; or
    2. To which persons under the age of eighteen years are not generally permitted access.
  - B. In any other place not identified in paragraph (a)(1) hereof, upon all of the following conditions:

1. The vending machine is located within the immediate vicinity, plain view and control of the person who owns or operates the place, or an employee of such person, so that all cigarettes, **alternative nicotine products** and other tobacco products purchased from the vending machine will be readily observed by the person who owns or operates the place or by an employee of such person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer waiting area, shall not be considered located within the immediate vicinity, plain view and control of the person who owns or operates the place, or an employee of such person.

2. The vending machine is inaccessible to the public when the place is closed.

(c) Possession and Use of Cigarettes, **alternative nicotine products** and Tobacco Products by Minors.

(1) No person shall give, sell, transfer or otherwise distribute cigarettes, **alternative nicotine products** or other tobacco products to any person under eighteen years of age.

(2) No person under eighteen years of age shall smoke, use cigarettes, **alternative nicotine products** or other tobacco products, or possess any substance containing tobacco.

(3) No person under eighteen years of age shall order, pay for, purchase, share the cost of, or attempt to purchase, share the cost of, or attempt to purchase, cigarettes, **alternative nicotine products** or other tobacco products.

(4) No person under eighteen years of age shall knowingly show or give false information concerning his or her name, age or other identification for the purpose of purchasing or otherwise obtaining cigarettes, **alternative nicotine products** or other tobacco products in any place in the City where cigarettes, **alternative nicotine products** or other tobacco products are sold.

(5) No person shall knowingly furnish any other identification of any person under eighteen years of age for the purpose of obtaining, or with the intent to obtain, cigarettes, **alternative nicotine products** or other tobacco products for a person under eighteen years of age, by purchase or as a gift.

(d) Immunity. No person may be found guilty of a violation of the provisions of this section, where age is an element of the offense, if any court determines that the individual buying, at the time of so doing, exhibited to the aforesaid person or his or her agent or employee, a driver's license or commercial driver's license or a State-issued identification card showing that such individual was then of legal age to buy cigarettes, **alternative nicotine products** or other tobacco products; if the aforesaid person, or his or her agent or employee, attempted to ascertain the true age of the individual buying by checking the identification presented at the time of purchase, to ascertain that the description of the identification presented compared with the visual description of the buyer and that the identification presented had not been altered in any way; and if the aforesaid person had reason to believe that the individual buying was of legal age.

(e) Penalty.

(1) Whoever violates any of the provisions of subsection (b) hereof is guilty of illegal distribution of cigarettes, **alternative nicotine products** or other tobacco products, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this section, then illegal distribution of cigarettes, **alternative nicotine products** or other tobacco products is a misdemeanor of the third degree.

(2) Whoever violates any of the provisions of subsection (c) hereof is guilty of possession and use of cigarettes, **alternative nicotine products** or other tobacco products by a minor, a misdemeanor of the fourth degree.

(Ord. 33-98. Passed 6-8-98.)

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the mayor.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dennis Fiorelli, President of Council

Attest:

Approved:

\_\_\_\_\_  
Keith A. Benjamin, Clerk of Council

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Georgine Welo, Mayor

Approved as to form:

\_\_\_\_\_  
Michael P. Lograsso, Director of Law

THE CITY OF SOUTH EUCLID

ORDINANCE NO.: 03-19  
INTRODUCED BY: Fiorelli  
REQUESTED BY: Mayor

February 11, 2019

AN ORDINANCE  
AN ORDINANCE AMENDING SECTION 537.161 "ILLEGAL DISTRIBUTION OF CIGARETTES"  
OF CHAPTER 537 "OFFENSES AGAINST PERSON" OF PART FIVE "GENERAL OFFENSE  
CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, The Council of the City of South Euclid, Ohio desires to protect minors from the dangers of Alternative nicotine products and electronic cigarettes;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:  
Section 1: That Section 537.161 "Illegal Distribution of Cigarettes" of Chapter 537 "Offenses Against Persons" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be amended as follows:

"537.161 ILLEGAL DISTRIBUTION OF CIGARETTES.

(a) No person shall knowingly sell or distribute cigarettes, **alternative nicotine products** and other tobacco products in a smaller quantity than that placed in the pack or other container by the manufacturer of such cigarettes, **alternative nicotine products** or other tobacco products.

(b) Whoever violates any provisions of this section is guilty of illegal distribution of cigarettes, **alternative nicotine products** or other tobacco products, a misdemeanor of the fourth degree. If the offender has previously been convicted of a violation of this section, then illegal distribution of cigarettes, **alternative nicotine products** or other tobacco products is a misdemeanor of the third degree."  
(Ord. 61-10. Passed 12-20-10.)

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, 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 shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the mayor.

\_\_\_\_\_  
Dennis Fiorelli, President of Council

Attest:

Approved:

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Keith A. Benjamin, Clerk of Council

\_\_\_\_\_  
Georgine Welo, Mayor

Approved as to form:

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Michael P. Lograsso, Director of Law