

CITY OF SHAWNEE
ORDINANCE NO. 3312

AN ORDINANCE PROVIDING FOR A NEW CHAPTER 5.51 TO THE SHAWNEE MUNICIPAL CODE TO REQUIRE FUTURE ELECTRONIC CIGARETTE RETAIL ESTABLISHMENTS COMPLY WITH A DISTANCE REQUIREMENT.

WHEREAS, much of the electronic cigarette marketing today uses bright colors, candy- and fruit-flavored liquids, cartoons and characters, and mirrors the marketing used by tobacco companies which was determined to target youth and is now prohibited; and

WHEREAS, a 2016 Surgeon General's report on electronic cigarette use among youth and young adults concluded that electronic cigarettes are unsafe for children and adolescents; and

WHEREAS, a 2017 study published in the Journal of the American Medical Association Pediatrics found an association between initial electronic cigarette use and subsequent tobacco cigarette smoking initiation and determined that state and local agencies needed to engage in regulatory actions to discourage youths' use of electronic cigarettes; and

WHEREAS, both the U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention (CDC) are investigating the cause of the severe respiratory illness and lung injuries associated with the use of vaping products, including e-cigarettes. The FDA and CDC have indicated they will take appropriate actions as the facts emerge but the cause has not yet been identified; and

WHEREAS, the Governing Body of the City of Shawnee deems it to be in the best interests of the health, safety and welfare of its youth to limit the access and exposure of under-age children to electronic cigarette items and marketing by imposing a distance restriction for such retail stores.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SHAWNEE, KANSAS:

PARAGRAPH 1. Title 5, of the Shawnee Municipal Code is hereby amended to add a new Chapter 5.51, Electronic Cigarette Retail Establishment, to read as follows:

5.51.010 Definitions.

- A. "Electronic Cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette, which can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.
- B. "Electronic Cigarette Retail Establishment" means a retail establishment that derives at least 65% of such establishment's revenue from Electronic Cigarettes and Electronic Cigarette products or a retail establishment that

holds itself out or advertises itself primarily as an electronic cigarette retail establishment.

5.51.020 License - Term - Fee

- A. It shall be unlawful for any person or entity to operate an Electronic Cigarette Retail Establishment within the corporate limits of the City without having first procured a license therefor from the City.
 - 1. All applications and fees for new or change of ownership licenses must be submitted to the City Clerk at least thirty (30) days in advance of the date sought for such issuance.
 - 2. All applications and fees for renewal of licenses shall be submitted to the City Clerk at least thirty (30) days prior to the last scheduled meeting of the Governing Body for that Calendar Year.
- B. Such license shall be valid from January 1 to December 31 of each calendar year and must be renewed annually.
- C. There is levied an annual license fee, in an amount recommended by the City Clerk or his or her designee and approved by the Governing Body and listed in the latest City of Shawnee Policy Statement Code.

5.51.030 Distance Requirement.

- A. No license shall be issued for any Electronic Cigarette Retail Establishment that is located within 5,280 feet of any other Electronic Cigarette Retail Establishment within Shawnee City Limits or outside City Limits, or within two hundred (200) feet of any property used or zoned for school, college, church, commercial daycare use, or any property used or zoned for residential use. The separation distances shall be measured from or to the outer wall of the Electronic Cigarette Retail Establishment to the property line of the property containing the school, college church, or commercial daycare use.
 - 1. Exception: If such school, college, church, or commercial daycare is established within two hundred (200) feet of any Electronic Cigarette Retail Establishment after the premises has been licensed, the premises shall remain an eligible location for said licensing as long as the premises remains in compliance with subsection B below.
- B. In the event any Electronic Cigarette Retail Establishment abandons or discontinues an Electronic Cigarette Retail Establishment in operation prior to the effective date of this Ordinance, any future Electronic Cigarette Retail Establishment operated at the same location shall be required to comply with the distance requirements set forth in this Section. This provision shall not apply to a change in ownership which may occur by operation of law, including a court order, divorce, death, mortgage foreclosure, bankruptcy or transfer by contract, provided there is a continuous occupancy or operation of the Electronic Cigarette Retail Establishment at the licensed location.
- C. Each Electronic Cigarette Retail Establishment shall retain the records of purchases and sales for a period of one year. These records are subject to inspection by the City and shall be provided within a

reasonable time upon request. The records may be in electronic or paper format. If electronic, the records must be available to print upon request by the City.

PARAGRAPH 2. Severability. If any one or more sections, subsections or other part of this Ordinance shall be declared invalid by a court of competent jurisdiction, it is the intent of the City that the remaining portions of the Ordinance shall remain effective. The City states that it would have enacted such remaining portions irrespective of the fact that one or more sections, subsections, or other part of the Ordinance have been held invalid.


PARAGRAPH 3. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law and Resolution 1880 is repealed upon the effective date.

PASSED by the Governing Body this 23 day of December, 2019.

APPROVED AND SIGNED by the Mayor this 23 day of December, 2019.

CITY OF SHAWNEE, KANSAS

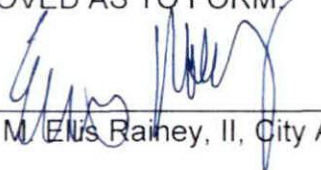


By: 
Michelle Distler, Mayor

ATTEST:

By: 
Stephanie Zaldivar, City Clerk

APPROVED AS TO FORM:

By: 
M. Ellis Rainey, II, City Attorney

The Legal Record


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CITY OF SHAWNEE - CITY CLERK
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SHAWNEE KS 66203-2750

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Pam Kruse, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE #3312 SUMMARY
12/31/19



Pam Kruse, Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

December 31, 2019



Notary Public

DEBRA VALENTI
Notary Public-State of Kansas
My Appt. Expires Aug. 21, 2023

SUMMARY OF ORDINANCE NO. 3312
First published in The Legal Record, Tuesday, December 31, 2019.
CITY OF SHAWNEE
Summary of Ordinance No. 3312

On the 23rd day of December, 2019, the Governing Body of the City of Shawnee, Kansas passed Ordinance No. 3312, providing for a new chapter 5.51 to the Shawnee Municipal Code to require future electronic cigarette retail establishments comply with a distance requirement.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at www.cityofshawnee.org.

The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. 3312 is legally accurate and sufficient.

Dated: 12/23/2019

/s/ M. Ellis Rainey, II, City Attorney
12/31

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