

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 87, GENERAL ORDINANCES, MARTIN COUNTY CODE; REPEALING ARTICLE 6 RELATING TO TOBACCO PRODUCTS; AMENDING ARTICLE 7 RELATING TO PROHIBITION ON USE OF VAPOR-GENERATING ELECTRONIC DEVICES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, APPLICABILITY, FILING WITH THE DEPARTMENT OF STATE, AN EFFECTIVE DATE, AND CODIFICATION.

WHEREAS, the Board of County Commissioners of Martin County, Florida, is authorized by provisions in Chapter 125, Florida Statutes, to provide for the health, safety and general welfare of the residents of Martin County; and

WHEREAS, the use of tobacco products has had devastating health and economic consequences in Martin County; and

WHEREAS, to help combat the impact of tobacco product use, on November 17, 2020 the Board adopted Ordinance 1149, which, among other things, established 21 as the minimum age for the purchase and use of tobacco products in Martin County and established a Tobacco Distribution License requirement for tobacco retailers in Martin County; and

WHEREAS, Ordinance 1149 was codified in Article 6, pertaining to tobacco products, and Article 7, pertaining to the use of vapor-generating devices, in Chapter 87, General Ordinances, Martin County Code; and

WHEREAS, on May 7, 2021, Governor DeSantis signed Senate Bill 1080 which contains language preempting local governments from regulating the minimum age for purchasing or possessing and the marketing, sale or delivery of nicotine products beginning October 1, 2021; and

WHEREAS, based on the preemption language contained in Senate Bill 1080, Article 6, Chapter 87, General Ordinances, Martin County Code must be repealed in its entirety; and

WHEREAS, Article 7, Chapter 87, Martin County Code provides restrictions pertaining to the use of vapor-generating electronic devices in Martin County; and

WHEREAS, Florida Statutes § 386.209 has not been amended or repealed and specifically authorizes county ordinances that impose restrictive regulations on the use of vapor-generating electronic devices; and

WHEREAS, Article 7, Prohibition on Use of Vapor-Generating Devices, Chapter 87, General Ordinances, Martin County Code does not need to be repealed.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

PART 1: REPEAL OF ARTICLE 6. TOBACCO PRODUCTS, CHAPTER 87, HEALTH, GENERAL ORDINANCES, MARTIN COUNTY CODE.

Article 6, Tobacco Products, Chapter 87, Health, General Ordinances, Martin County Code is repealed in its entirety.

ARTICLE 6. - RESERVED

Secs. 87.131-87.145. – Reserved.

PART 2: ARTICLE 7. PROHIBITION ON USE OF VAPOR-GENERATING ELECTRONIC DEVICES, CHAPTER 87, GENERAL ORDINANCES, MARTIN COUNTY CODE, IS HEREBY AMENDED AS FOLLOWS:

Sec. 87.147. Use of vapor-generating electronic device

The use of a vapor-generating electronic device, as defined in F.S. § 386.203 (15), ~~Article 6,~~ is prohibited at all locations within the unincorporated County at which smoking and vaping are prohibited under F.S. ch. 386, or within 50 feet thereof and at County parks.

PART 3: CONFLICTING PROVISIONS.

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART 4: SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

PART 5: APPLICABILITY.

This ordinance shall be applicable throughout the unincorporated area of Martin County.

PART 6: FILING WITH DEPARTMENT OF STATE.

The Clerk shall be and is hereby directed forthwith to scan this Ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

PART 7: EFFECTIVE DATE.

This ordinance shall take effect immediately upon filing with the Office of Secretary of State.

PART 8: CODIFICATION.

Provisions of this ordinance shall be incorporated in the County Code, except parts 3 to 8 shall not be codified. The word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered or re-lettered.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY THIS ____ DAY OF SEPTEMBER 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

STACEY HETHERINGTON, CHAIR

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

SARAH W. WOODS, COUNTY ATTORNEY

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