

AN ORDINANCE OF THE CITY OF GLUCKSTADT, MISSISSIPPI PROHIBITING THE POSSESSION AND CONSUMPTION OF ALTERNATIVE NICOTINE PRODUCTS AND ELECTRONIC CIGARETTES BY MINORS

Be it ordained by the governing authorities of the City of Gluckstadt, Mississippi that the possession and consumption of alternative nicotine products and electronic cigarettes by minors is prohibited, as follows, to-wit:

Section 1. Possession and/or use of alternative nicotine products by minor prohibited; definitions, penalties.

(1) For the purposes of this section:

(a) (i) “Alternative nicotine product” means:

1. An electronic cigarette, or
2. Any other product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling or by any other means.

(ii) Alternative nicotine product does not include:

1. A cigarette or other tobacco product as defined in Section 97-32-3;
2. A product that is a drug under 21 USCS 321(g)(1);
3. A product that is a device under 21 USCS 321(h); or
4. A combination product described in 21 USCS 353(g).

(b) (i) “Electronic cigarette” means an electronic product or device that produces a vapor that delivers nicotine or other substances to the person inhaling from the device to simulate smoking, and is likely to be offered to, or purchased by, consumers as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vape or vaping device.

(ii) Electronic cigarette does not include:

1. A cigarette or other tobacco products as defined in Section 97-32-3;
2. A product that is a drug under 21 USCS 321(g)(1);
3. A product that is a device under 21 USCS 321(h); or

4. A combination product described in 21 USCS 353(g).
- (2) No person under twenty-one (21) years of age shall possess or use any alternate nicotine product and/or electronic cigarette within the corporate limits of the city.
- (3) No person under twenty-one (21) years of age shall possess or use an alternate nicotine product and/or electronic cigarette on school property. School property means and includes a public or private school building or bus, public or private school campus, grounds, recreational area, athletic field or other property owned, used or operated any local school board, school, board of trustees or for directors for the administration of any public or private education institution, but does not include property of any school where a majority of those regularly enrolled in the school do not constitute “compulsory school age children” as that term is defined in MCA Section 37-13-91 (1972 as amended), or private home, home school or ecclesiastical school.
- (4) A violation of this subsection is punishable as follows:
 - (a) For a first offense, by a fine of Fifty Dollars (\$50.00), up to 30 hours of community service, and successful completion of a class aimed at educating and deterring the use of tobacco, alternative nicotine products and electronic cigarettes, or such combination of the penalties provided herein as the court determines in its discretion;
 - (b) For a second or subsequent offense by a fine of up to Two Hundred Fifty Dollars (\$250.00) up to 60 hours of community service, and successful completion of a class aimed at educating and deterring the use of tobacco, alternative nicotine products and electronic cigarettes, or such combination of the penalties provided herein as the court determines in its discretion. For any second or subsequent offense, the court may require as a condition of completion that a parent or legal guardian of the minor defendant to attend and complete the class referenced herein with the violator;
 - (c) At any hearing or trial of any charge brought under this section, a parent or legal guardian of the minor defendant shall be present at court with the minor defendant unless otherwise excused by the court.
 - (d) The court shall have the full discretion to reduce, suspend, and/or non-adjudicate any to expunge, the charge, fines, penalties and/or other requirements under this section.
- (5) Preemption by State Law:

In the event a specific state statute preempts the provisions of this Section, state law shall control; however, when within the authorized discretion of the municipal court judge, the municipal court judge shall be permitted to impose sentence for any such violation of this

Section as provided herein or as specifically preempted by state law, in accordance with paragraph (4)(a)-(d) hereinabove.

Section 2. In order to preserve the health, safety and welfare of the community, upon unanimous vote, this Ordinance shall go into effect immediately upon adoption. In the event the vote to adopt this Ordinance is less than unanimous, this Ordinance shall go into effect thirty (30) days after the adoption hereof.

Section 3. This Ordinance having been reduced to writing and no request for the same to be read by the Clerk having been made, the same was introduced by Alderman Williams, seconded by Alderman Bates and was adopted by the following vote, to-wit:

	Aye	Nay
ALDERWOMAN BATES	<u>✓</u>	_____
ALDERMAN POWELL	<u>✓</u>	_____
ALDERMAN SLAY	<u>✓</u>	_____
ALDERMAN TAYLOR	<u>✓</u>	_____
ALDERWOMAN WILLIAMS	<u>✓</u>	_____

The Mayor thereby declared the motion carried and the Ordinance adopted and approved on this the 13 day of December, 2022.

SO ORDAINED, THIS THE 13 DAY OF December, 2022.

Walter Morrison
WALTER C. MORRISON, IV
MAYOR

Attest:

Lindsay Kellum

LINDSAY D. KELLUM
CITY CLERK

[SEAL]

