

ORDINANCE NO. 1700

AN ORDINANCE OF THE CITY OF AMORY, MISSISSIPPI, AMENDING ORDINANCE NO. 1639 OF THE CITY OF AMORY, BY AMENDING SECTION 1, SMOKING BAN ORDINANCE SECTION 4. EXCEPTIONS; SECTION 8. ENFORCEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Amory, Mississippi, heretofore adopted Ordinance No. 1639 regulating smoking in public places within the City of Amory, Mississippi, said Ordinance being dated 2nd day of October, 2007, as amended by Ordinance No. 1641 dated the 16th day of October, 2007; and

WHEREAS, Electronic smoking devices commonly referred to as electronic cigarettes or e-cigarettes are battery-operated devices that may resemble cigarettes, although they do not contain tobacco leaf; and

WHEREAS, People who use electronic smoking devices inhale vaporized liquid nicotine extracted from tobacco or inhale other vaporized liquids created by heat through an electronic ignition system and exhale the vapor in a way that mimics smoking; and

WHEREAS, the FDA's Center for Drug Evaluation and Research division of Pharmaceutical Analysis (DFA) analysis of electronic cigarette samples showed that the products contained detectable levels of known carcinogens and toxic chemicals to which users could be exposed; and

WHEREAS, the Surgeon General has found that the chemical nicotine is a powerful pharmacologic agent that acts in the brain and throughout the body and is highly addictive; and

WHEREAS, Health authorities have also expressed concerns that the vapors released into the air through the use of an electronic cigarette present a danger to others who breathe them; and

WHEREAS, studies have demonstrated although the levels of nicotine present in the second-hand smoke emitted from the use of electronic cigarettes is less than the levels of nicotine emitted from the second-hand smoke of cigarettes, the levels are clearly higher than not being exposed to second-hand smoke from cigarettes or electronic smoking devices; and

WHEREAS, the FDA has raised concerns that electronic cigarettes, including but not limited to flavored electronic cigarettes, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products; and

WHEREAS, the State of Mississippi prohibits the selling, offering for sale, giving or furnishing electronic cigarettes to minors under Miss. Code Anno, Sec. 97-32-51 (1972 as amended); and

WHEREAS, the use of electronic cigarette devices are visually similar to the smoking of cigarettes, creating concern and confusion that threatens to interfere with enforcement of the City of Amory Smoking Ordinance.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
AMORY, MISSISSIPPI:

Section 1: The prefatory language above is hereby incorporated herein by reference.

Section 2: That Ordinance No. 1639 of the City of Amory, Mississippi be and the same is hereby amended by amending Section 1. Definitions, to add the following definitions to the alphabetical listing of definitions:

“Electronic cigarette” means an electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the Food and Drug Administration for sale as a drug or medical device.

Retail **“electronic cigarette store”** means a retail store devoted primarily to the sale of electronic cigarettes, and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than fifty percent of the total annual gross sales.

Retail **“tobacco store”** means a retail store devoted primarily to the sale of tobacco products and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than fifty percent of the total annual gross sales.

Section 3: That Ordinance No. 1639 of the City of Amory, Mississippi be and the same is hereby amended by amending Section 1. Definitions, by replacing the definition of "Smoking" with the following language:

“Smoking” means inhaling, exhaling, vaping, burning, or carrying any lighted cigar, cigarette, pipe, electronic smoking device, hookah, or other lighted, electronically-ignited or combusted tobacco or nicotine product in any manner or any form.

Section 4: That Ordinance No. 1639 of the City of Amory, Mississippi be and the same is hereby amended by amending Section 4. Exceptions, by adding the following exceptions:

d. Retail tobacco stores.

e. Retail electronic cigarette stores: provided however, that such stores may only permit the use of electronic cigarettes.

Section 5: That Ordinance 1639 of the City of Amory, Mississippi be and the same is hereby amended by amending Section 8. Enforcement by adding the following subsections:

e. It shall be unlawful for any individual to operate a retail tobacco store or a retail electronic cigarette store without having registered with the City Clerk's office in accordance with the rules of the office of the City Clerk.

f. The Office of the City Clerk shall promulgate all rules and regulations necessary to establish a system for review and verification of total annual gross sales of retail tobacco stores and retail electronic cigarette stores.

Section 6: That all provisions of the Ordinances of the City of Amory, Mississippi in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other provisions of the Ordinances of the City of Amory, Mississippi not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 7: That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of the Ordinances of the City of Amory as a whole and or this Ordinance.

Section 8: This Ordinance shall be in full force and effect on the 30th day after passage. The City Clerk shall cause the Ordinance to be published in a local newspaper with a general circulation.

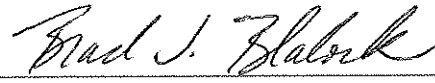
After a full discussion of this matter, Alderman Tyrone James moved that the foregoing Ordinance be adopted and said motion was seconded by Alderman Glen Bingham and upon the question being put to a vote, the results were as follows:

Alderman Buddy Carlisle	voting Yea
Alderman John Darden	voting Yea
Aldermen Tony Poss	voting Yea
Alderman Glen Bingham	voting Yea
Alderman Tyrone James	voting Yea

The motion having received the affirmative vote of a majority of the members present, the Mayor declared the motion carried and the Ordinance adopted.

WHEREUPON, the foregoing Ordinance was declared, passed and adopted at a regular meeting of the Board of Aldermen on this the 17th day of May, 2016.

CITY OF AMORY, MISSISSIPPI



BRAD J. BLALOCK, MAYOR

ATTEST:


LEE BARNETT, CITY CLERK