

Ordinance Number: _____

AN ORDINANCE OF THE DAWSON COUNTY BOARD OF COMMISSIONERS TO PROVIDE FOR LICENSING OF VAPE SHOPS, IMPOSE RESTRICTIONS ON OPERATION OF VAPE SHOPS, AND RESTRICT USE OF VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS AROUND SCHOOLS AND CHURCHES; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations;

WHEREAS, the Board of Commissioners of Dawson County has determined that it is in the public interest to regulate the sale and use of vapor products and alternative nicotine products to the extent consistent with Georgia law; and

WHEREAS, the Dawson County Board of Commissioners has determined to adopt an ordinance regulating these matters;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Dawson County, Georgia, as follows:

SECTION 1.

Chapter 6, Article IV of the Code of Dawson County, Georgia is amended as shown in Exhibit A hereto.

SECTION 2.

Chapter 30, Article II of the Code of Dawson County, Georgia is amended as shown in Exhibit B hereto.

SECTION 3.

Chapter 34, Article I of the Code of Dawson County, Georgia is hereby amended as shown in Exhibit C hereto.

SECTION 4.

Chapter 38, Article II of the Code of Dawson County, Georgia is hereby amended as shown in Exhibit D hereto.

SECTION 5.

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular

situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

SECTION 5.

All Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 6.

This ordinance shall become effective on January 1, 2020, the public good demanding the same.

SO ORDAINED this 17 day of October, 2019.


Dawson County Board of Commissioners



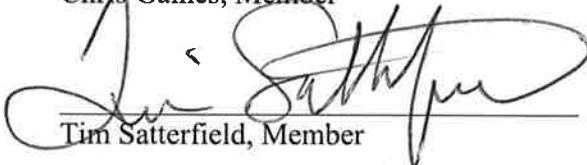
Billy Thurmond, Chairman




Sharon Fausett, Member



Chris Gaines, Member



Tim Satterfield, Member



Julie Hughes Nix, Member

Attest:
By: 

Kristen Cloud, County Clerk



Exhibit A

Chapter 6, Article IV of the Code of Dawson County, Georgia is amended as follows:

1. Section 6-105 is amended by adding a new subsection (b)(9) as follows: "Has its vape shop license for the premises revoked or suspended for cause."

Exhibit B

Chapter 30, Article II of the Code of Dawson County, Georgia is amended as follows:

1. Section 30-115 is amended by adding a new subsection (b)(4) as follows: "Vape shops as defined in section 30-363."
2. A new Section 30-128 is added reading as follows: "Sec. 30-128 – Incorporation of Vape Shop License into Business License. As provided in Division 10 of this Article, a license to sell "alternative nicotine products" and "vapor products" (as defined in Division 10) shall, if approved, be issued as a component of an applicant's business license. Additional application materials and fees will be required from any applicant seeking to have this licensure component included in its business license."
3. Chapter 30, Article II of the Code of Dawson County, Georgia is amended by adding a new Division 10 containing the following text:

DIVISION 10. – VAPE SHOPS

Sec. 30-362. - State law reference.

The rules and regulations set forth in this division shall govern the operation of all vape shops in the unincorporated areas of Dawson County. This division is adopted under the home rule provisions of Art. IX, Section III, Paragraph I of the state constitution (Ga. Const. art. IX, § III, ¶ I).

Sec. 30-363. – Definitions.

For the purposes of this section, the following terms shall have the following meanings:

- (a) "Alternative nicotine product" shall mean any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term "alternative nicotine product" shall not include any tobacco product (as defined in Ga. R&Reg. 560-8-1.01), vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- (b) "Person" shall mean and refer to any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other entity.
- (c) "Specialty vape shop" shall mean a vape shop whose sales of alternative nicotine products and vapor products, combined, exceed twenty-five percent (25%) of the aggregate retail sales of the shop, as determined by averaging sales from the prior three months.
- (d) "Vape juice" shall mean any substance that contains nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

- (e) “Vapor product” shall mean any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term “vapor product” shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, any vape juice, and any vapor cartridge or other container for vape juice. The term “vapor product” shall not include any tobacco product (as defined in Ga. R&Reg. 560-8-1.01), or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- (f) “Vape shop” shall mean any business whose product line for retail sale includes alternative nicotine products and/or vapor products.
- (g) “Verified sales report” shall mean a document, sworn to as complete and accurate before a notary public, showing the applicant's total receipts and receipts from sales of alternative nicotine products and vapor products for each month in the prior year.

Sec. 30-364. - Licenses generally; expiration and application dates; renewals.

- (a) Before beginning the business of operating a vape shop, an operator shall first obtain a license to conduct such a business. Only persons who are a minimum of 21 years old will be eligible to obtain a license to operate a vape shop. The application for a license to operate a vape shop shall be made to the County Planning and Development Department, in conjunction with the application for a business license under Division 3 of this Article. Except as specifically provided in this Division 10, the application for, and issuance of, a vape shop license shall be performed in conjunction with, and subject to the terms of, the business licensing process as described in Divisions 2 and 3. No separate paper license will be issued for operation of a vape shop; instead, permission to operate a vape shop will be indicated on the granted business license.
- (b) All persons operating a vape shop under a County business license prior to January 1, 2020 shall file an application for a vape shop license in connection with the shop’s next annual business license renewal application and shall meet the application requirements of this division.
- (c) All licenses issued under this division shall:
 - (1) Permit the licensee to sell alternative nicotine products and vapor products within Dawson County and outside municipalities in Dawson County, Georgia, pursuant to the terms of this division and not inconsistent with the laws of the State of Georgia and of the United States;
 - (2) Be subject to the restrictions on transfer of business licenses under Section 30-106, except that a vape shop license may not be transferred from one location to another without the prior approval of the County upon written application;
 - (3) Be subject to all terms and conditions imposed or provided for by future provisions or amendments to this vape shop ordinance; and
 - (4) Indicate if the licensee is authorized to operate a specialty vape shop pursuant to Section 30-365(b)(2).

- (d) In addition to the administrative fee imposed for a business license, a separate nonprorated, nonrefundable administrative fee set forth in the Dawson County Fee Schedule shall be required on all applications for a vape shop license.

Sec. 30-365. - Application for license; issuance of license; denial; appeal; renewal

- (a) *Application Contents.* Each initial and renewal application for a vape shop license, in addition to the standard requirements of an application for a business license, shall provide the following:

- (1) A verified sales report; and
- (2) A survey (dated no more than 180 days prior to submission of the application), certified by a registered surveyor of the State of Georgia, showing a scaled drawing of the premises, the location on the premises where the applicant desires to sell any item of alternative nicotine product and/or vapor product and the distance to the nearest church building, school building, educational building, school grounds or college grounds, and college campus building. The distance shall be measured in a straight line from the front door of the proposed licensed premise to the front door of the church, day care, or treatment facility, and from the front door of the proposed licensed premise to the nearest property line of the real property used for school, college or educational purposes.

- (b) *Grant/Denial.* Grant or denial of applications for a vape shop licenses shall follow the process provided for businesses licenses. No license shall be issued or renewed if any of the following are true:

- (1) An applicant is not at least 21 years of age.
- (2) The applicant's verified sales report shows that it operated a specialty vape shop during any consecutive three-month period in the prior year, if the applicant is not permitted to operate a specialty vape shops as provided in subsection (3) below.
- (3) An applicant's intent is to operate a specialty vape shop, unless such applicant demonstrates that it operated a specialty vape shop on January 1, 2020, and has consistently operated a specialty vape shop since that time, up to and including the date of application. In such case, the license shall specifically state that the licensee is authorized to operate a specialty vape shop under the terms and conditions of this division.
- (4) An applicant is not the owner of the premises for which the license is held or the holder of the lease thereon for the period covered by the license.
- (5) An applicant has had an application for a license denied under the provisions of this division and has made re-application within one year from the final date of such denial. For purposes of this provision, the final date of a denial of license shall be the date of written notice of such denial if the denial is not appealed; or, if the denial is appealed, the date of written notice of denial of the appeal.
- (6) An applicant has had a license revoked under the provisions of this division within three years from the date of application. For purposes of this provision, the final date of a revocation of license shall be the date of written notice of such revocation

if the revocation is not appealed; or, if the revocation is appealed, the date of written notice of denial of the appeal.

- (7) An applicant seeks a license to operate a vape shop at a location where the County has suspended or revoked a vape shop license in the previous 36 months; and
 - (A) The applicant worked at that shop when the license was revoked or suspended; or
 - (B) The applicant is related (by blood or marriage within the 5th degree) to the person holding the revoked or suspended license at the location in question.
- (8) A proposed business fails to comply with the minimum distance limits set forth in this division.
- (9) An applicant fails to pay required fees.
- (10) An applicant refuses to respond to requests for information, or provides untruthful or substantially inaccurate information, upon request by the Department of Planning and Development.

Sec. 30-366. - Sale or possession for sale of alternative nicotine products or vapor products without license or beyond boundaries of premises covered by license.

Except as provided in Section 30-364(b), it shall be unlawful for any person to sell, distribute, or possess for the purpose of sale any alternative nicotine product and/or vapor product if the person is not authorized by a vape shop license granted by Dawson County.

Sec. 30-367. – Restrictions on sale and display.

- (a) No licensee or other person may sell or permit to be sold any alternative nicotine product and/or vapor product to any person who is under 19 years of age, either directly or indirectly.
- (b) No licensee or other person may operate a specialty vape shop, unless under a license specifically authorizing such operation, as provided in Section 30-365(b).
- (c) Each vape shop shall maintain its entire inventory of alternative nicotine product and/or vapor product and any additional line of devices in a screened area. It shall be unlawful for a person to allow any item of alternative nicotine product or vapor product to be in view of the public, except during actual sales transactions of such items.
- (d) No licensee or other person may sell any vape juice that contains any chemical, substance, drug, or other harmful additive other than pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.
- (e) All vape shops shall prominently post a sign on any premises where vape juice is sold stating that the only chemicals authorized to be used in such vape juice are pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water.
- (f) All vape shops shall prominently post a sign on any premises where alternative nicotine products and/or vapor products are sold explaining how to safely use e-batteries for alternative nicotine product and/or vapor products.

- (g) Any mixing or preparing vape juice on the premises of any building or establishment that offers alternative nicotine products and/or vapor products for retail sales to consumers shall be done strictly in compliance with FDA regulations and applicable permits.

Sec. 30-368. – Location and minimum distance

No license shall be issued under this division for the sale of alternative nicotine products and/or vapor products if the intended premises is within 300 feet of any church building, or on any property owned or leased to a church, or in or within 600 feet of any school building, educational building, school grounds, or college campus, or on any property owned or leased to a public or private school or school board for elementary or secondary education. Provided, however, that any premises that sells alternative nicotine products and/or vapor products as of January 1, 2020 and that is located within such restricted proximity may continue to sell such products in such premises, provided that said license holder remains in compliance with all other provisions of this division and the use of the premises to sell alternative nicotine products and/or vapor products remains ongoing and continuous, and provided further that no license renewal application is denied for violating this section if at the time of the original license application the location was in compliance with this section. If the sale of alternative nicotine products and/or vapor products is discontinued, the grandfathering entitlement under this paragraph shall be forfeited.

Sec. 30-369. - Reporting; suspension or revocation of license.

- (a) Upon receipt of a written request from the Director of the County Planning and Development Department or any other officer authorized to enforce the provisions of this ordinance, a vape shop license holder shall provide a verified sales report for the twelve months preceding the date of the request. Such report shall be provided within two weeks of receipt of the request, unless an extension is granted in the discretion of the requesting officer.
- (b) Suspension or revocation of vape shop licenses shall follow the process provided for business licenses (Sections 30-113 through 30-118).
- (c) A vape shop license may be suspended or revoked for any reason stated under Section 30-113, and/or for any the following reasons:
 - (1) A licensee or its agents commit a felony or any crime involving moral turpitude.
 - (2) A license is determined to have been issued due to administrative error, or due to mistake, or in reliance upon any misrepresentation by the applicant or anyone providing information on behalf of the applicant.
 - (3) The licensee’s alcohol license or business license is suspended or revoked for cause.

Sec. 30-370. - Penalties for violation of chapter.

Any person who violates any provision of this chapter, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20 and O.C.G.A. § 15-10-60.

Sec. 30-371—30-387. – Reserved.

Exhibit C

Chapter 34, Article I of the Code of Dawson County, Georgia is amended by adding a new Section 34-5 with the following text:

Sec. 34-5. – Use of alternative nicotine product and/or vapor products

- (a) For purposes of this section, “alternative nicotine product” and “vapor product” shall have the definitions stated in Section 30-363.
- (b) Prohibition
 - (1) It shall be unlawful for any person under the age of 19 to:
 - (A) Purchase or attempt to purchase, or use alternative nicotine products or vapor products; or
 - (B) Possess for personal use any alternative nicotine products or vapor products. This subparagraph shall not apply to possession of such products by a person under the age of 19 when a parent or guardian of such person gives the alternative nicotine products or vapor products to the person, and the possession occurs in the home of the parent or guardian and such parent or guardian is present; provided that the only additive in such products is tobacco or nicotine; or
 - (C) Misrepresent such person's identity or age or use any false identification of the purpose of purchasing or procuring any alternative nicotine products or vapor products.
 - (2) The use of alternative nicotine products or vapor products is prohibited in or within 300 feet of any church building, or on any property owned or leased to a church, other than in designated areas, if any.
 - (3) The use of alternative nicotine products or vapor products is prohibited in or within 600 feet of any school building, educational building, school grounds, or college campus, or on any property owned or leased to a public or private school or school board for elementary or secondary education, other than in designated areas, if any.
 - (4) The use of alternative nicotine products or vapor products is prohibited in the premises of a shop that offers for sale any alternative nicotine product, vapor product or tobacco product unless such premises has an operational dehumidifier and exhaust fan vented to the outside to dispel any smoke or vapor produced by on-premises use.
- (c) Any person who violates any provision of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20 and O.C.G.A. § 15-10-60.

Exhibit D

Chapter 38, Article II, Section 38-44, Subsection (b) of the Code of Dawson County, Georgia is deleted and replaced with the following text:

“No person may use any alternative nicotine product or vapor product (as defined in Section 30-363), including e-cigarettes, on property owned, leased, or operated by Dawson County.”

Ordinance Number: _____

AN ORDINANCE OF THE DAWSON COUNTY BOARD OF COMMISSIONERS TO AMMEND THE ORDINANCE WHICH PROVIDES FOR LICENSING OF VAPE SHOPS, IMPOSE RESTRICTIONS ON OPERATION OF VAPE SHOPS, AND RESTRICT USE OF VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS AROUND SCHOOLS AND CHURCHES; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations;

WHEREAS, the Board of Commissioners of Dawson County has determined that it is in the public interest to regulate the sale and use of vapor products and alternative nicotine products to the extent consistent with Georgia law; and

WHEREAS, the Dawson County Board of Commissioners has determined to adopt an ordinance regulating these matters;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Dawson County, Georgia, as follows:

SECTION 1.

Chapter 30, Article II Section 30-363(e) of the Code of Dawson County, Georgia is amended as shown in Exhibit A hereto.

SECTION 2.

Chapter 30, Article II, Section 30-367(a) of the Code of Dawson County, Georgia is amended as shown in Exhibit B hereto.

SECTION 3.

Chapter 34, Article I, Section 34-5 (b.1.A and B) of the Code of Dawson County, Georgia is amended as shown in Exhibit C hereto.

SECTION 4.

Chapter 34, Article I, Section 34-5(c) of the Code of Dawson County, Georgia is amended as shown in Exhibit D hereto.

SECTION 5.

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular

situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

SECTION 5.

All Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 6.

This ordinance shall become effective on the 6 day of May, 2021, the public good demanding the same.

SO ORDAINED this 6 day of 2021.

Dawson County Board of Commissioners



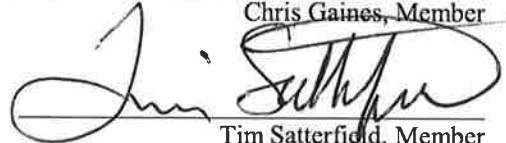
Billy Thurmond, Chairman



Sharon Fausett, Member



Chris Gaines, Member



Tim Satterfield, Member



Emory Dooley, Member

Exhibit A

Chapter 6, Article II, Section 30-363(e) of the Code of Dawson County, Georgia is amended as follows:

- e. "Vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from nicotine or other substances in a solution or other form. Such term shall include, but shall not be limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor or aerosol cartridge or other container of nicotine or other substance in a solution or other form, including, but not limited to, a device component, part, or accessory of the device, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Such term shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Exhibit B

Chapter 30, Article II, Section 30-367(a) of the Code of Dawson County, Georgia is amended as follows:

Sec. 30-367. - Restrictions on sale and display.

- (a) No licensee or other person may sell or permit to be sold any alternative nicotine product and/or vapor product to any person who is under 21 years of age, either directly or indirectly.

Exhibit C

Chapter 34, Article I, Section 34-5 (b.1.A and B) of the Code of Dawson County, Georgia is amended as follows:

Sec. 34-5. - Use of alternative nicotine product and/or vapor products

(b) Prohibition

1. It shall be unlawful for any person under the age of 21 to:
 - A. Purchase or attempt to purchase, or use alternative nicotine products or vapor products; or
 - B. Possess for personal use any alternative nicotine products or vapor products. This subparagraph shall not apply to possession of such products by a person under the age of 21 when a parent or guardian of such person gives the alternative nicotine products or vapor products to the person, and the possession occurs in the home of the parent or guardian and such parent or guardian is present; provided that the only additive in such products is tobacco or nicotine; or

Exhibit D

Chapter 34, Article I, Section 34-5(c) of the Code of Dawson County, Georgia is amended as follows:

- (c) Any person who violates any provision of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine and/or imprisonment in accord with the limits established in O.C.G.A. § 36-1-20, O.C.G.A. § 15-10-60 and O.C.G.A. § 16-12-171.