

ORDINANCE NO. 2014-288

**AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING
TITLE III, CHAPTER 20 OF THE TOWN OF WINDSOR CODE TO PROHIBIT THE
USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities with the authority to enact ordinances to protect the health, safety, and welfare of their citizens; and

WHEREAS, according to the American Lung Association, the health consequences of the use of electronic smoking devices (“E-Cigarettes”) and the vapor they emit are presently unknown and there is currently no scientific evidence establishing the safety of E-Cigarettes; and

WHEREAS, initial lab tests conducted in 2009 by the United States Food and Drug Administration (“FDA”) found detectable levels of toxic cancer-causing chemicals in two leading brands of E-Cigarettes, and 18 various cartridges, and found that cartridges labeled as nicotine-free had traceable levels of nicotine; and

WHEREAS, the FDA has not approved E-Cigarettes as an effective method for helping tobacco cessation and has issued a statement that it intends to regulate E-Cigarettes as tobacco products including, but not limited to, imposing marketing restrictions, mandating ingredients listings, and requiring pre-market review; and

WHEREAS, the Town Council of the Town of Windsor finds that prohibiting the use of E-Cigarettes is necessary to protect the public health, safety, and welfare against the unknown and potentially noxious and harmful secondary effects and adverse impacts of E-Cigarettes.

NOW, THEREFORE, the Town Council of the Town of Windsor does ordain as follows:

SECTION 1. Section 3-20-105 of the Town of Windsor Municipal Code entitled “Findings” is hereby amended by adding the following:

f. The U.S. Food and Drug Administration has determined that electronic smoking devices which deliver an inhalable dose of nicotine or other chemicals by vaporized solution may contain carcinogens and other toxic chemicals such as diethylene glycol that have been found addictive and harmful to public health.

g. The safety of electronic smoking devices, and the health effects of those exposed to vapor emitted by such devices, is unknown because such safety and health effects have not been fully studied.

SECTION 2. Section 3-20-110 of the Town of Windsor Municipal Code entitled "Definitions" is hereby amended by replacing 3-20-110.i with the following and adding a new 3-20-110.j:

i. Smoking means inhaling or exhaling from, or possessing, a lighted pipe, lighted cigar, operating electronic smoking device, or lighted cigarette of any kind, or the lighting of a pipe, cigar, electronic smoking device, or cigarette of any kind, including but not limited to, tobacco, or any other weed or plant.

j. Electronic smoking device means an electronic and/or battery-operated device, which can provide an inhalable dose of nicotine or other substances by delivering a vaporized solution. "Electronic smoking device" includes any such electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

Section 3. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 4. Effective Date and Publication.

This Ordinance shall take effect and be in force 30 days following its passage. Before the expiration of fifteen (15) days after its passage, this Ordinance, or a summary thereof, as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulations published and circulated in the Town of Windsor.

PASSED, APPROVED, AND ADOPTED this 15th day of October 2014, by the following vote:

**AYES: COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SALMON AND
MAYOR OKREPKIE**
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE


BRUCE OKREPKIE, MAYOR

ATTEST:


MARIA DE LA O, TOWN CLERK