

**PRE-MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

**CITY HALL PRE-COUNCIL ROOM (A106)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213**

JULY 11, 2016 6:00 PM

1. Smoke-Free Ordinance- Dr. Dale Wisely of the Mountain Brook School System and Charlene White of the Jefferson County Health Dept. (See attached information.)
2. Cell Phone free zone around schools ordinance-Dale Wisely of the Mountain Brook School system. (See attached information.)
3. Executive Session



Ordinance NO. _____
Model Ordinance Prohibiting Smoking in
All Workplaces and Public Places

WHEREAS, the Council of the City of _____ finds that numerous studies have shown that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) even occasional exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.ⁱ

WHEREAS, the Council finds that studies have shown that residual tobacco contamination, or “thirdhand smoke,” from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds.ⁱⁱ Tobacco residue is noticeably present in dust throughout places where smoking has occurred.ⁱⁱⁱ Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.^{iv}

WHEREAS, the Council finds that unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.”^v According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.^{vi} Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

WHEREAS, the Council finds that the Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.^{vii}

WHEREAS, the Council finds that numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety.^{viii}

WHEREAS, the Council finds that there is no legal or constitutional "right to smoke."^{ix} Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.^x

WHEREAS, the Council finds that smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses.^{xi}

NOW, THEREFORE, the Council of the City of _____ finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

Section 1. Definitions

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- A. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "Cigar Bar" means a licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories and in which the sale of the other products is merely incidental.
- D. "Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the

product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

- E. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- F. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- G. "Enclosed Area" means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- H. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- I. "Hookah" means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.
- J. "Place of Employment" means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- K. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City or County] grounds.
- L. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an

annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

- M. "Public Event" means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.
- N. "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gambling facilities, health care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
- O. "Recreational Area" means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.
- P. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- Q. "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- R. "Shopping Mall" means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.
- S. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.
- T. "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Section 2. Application of Article to [City-Owned or County-Owned] Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the _____ [City or County] of _____, as well as all outdoor property adjacent to such buildings and under the control of the _____ [City or County], shall be subject to the provisions of this Section.

Section 3. Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the _____ [City or County] of _____, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, and museums.
- B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gambling facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Parking structures.
- N. Polling places.

- O. Public transportation vehicles, including buses and taxicabs, under the authority of the _____ [City or County], and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- P. Restaurants.
- Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- R. Retail stores.
- S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the _____ [City or County] or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the _____ [City or County].
- T. Service lines.
- U. Shopping malls.
- V. Sports arenas, including enclosed places in outdoor arenas.
- W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.
- X. Private clubs.

Section 4. Prohibition of Smoking in Enclosed Places of Employment

- A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

Section 4. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes.
- B. All hotel and motel guest rooms.

Section 5. Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

- A. In all outdoor stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- B. In, and within 20 feet of, all outdoor playgrounds
- C. In, and within 20 feet of, all outdoor public events.
- D. In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the _____ [City or County].
- E. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 20 feet of the point of service.
- F. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Section 6. Prohibition of Smoking in Outdoor Places of Employment

- A. Smoking shall be prohibited in all outdoor places of employment where two or more employees are required to be in the course of their employment. This includes, without limitation, work areas, construction sites, temporary offices such as trailers, restroom facilities, and vehicles.

Section 7. Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, smoking shall not be prohibited in:

- A. Private residences, unless used as a childcare, adult day care, or health care facility.
- B. Cigar bar as defined in Section 1(c). Cigar bars must satisfy all of the following:
 - 1. Generates 80 (eighty) percent or more of its quarterly gross revenue from the sale of cigars;
 - 2. Has a humidor on the premises and;
 - 3. Does not allow individuals under the age of 19 to enter the premises.

Section 8. Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1012(A) is posted.

Section 9. Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this Article shall:

- A. Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
- C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

Section 10. Nonretaliation; Nonwaiver of Rights

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Section or reports or attempts to prosecute a violation of this Section. Notwithstanding Section 12, violation of this provision shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 11. Enforcement

- A. This Section shall be enforced by the _____ [City Manager or County Administrator] or an authorized designee.

- B. Notice of the provisions of this Section shall be given to all applicants for a business license in the _____ [City or County] of _____.
- C. Any citizen who desires to register a complaint under this Section may initiate enforcement with the _____ [Department of Health or City Manager or County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Section.
- E. An owner, manager, operator, or employee of an area regulated by this Section shall direct a person who is smoking in violation of this Section to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.
- F. Notwithstanding any other provision of this Section, an employee or private citizen may bring legal action to enforce this Section.
- G. In addition to the remedies provided by the provisions of this Section, the _____ [City Manager or County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Section 12. Violations and Penalties

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. Except as otherwise provided in Section 1013(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Section by a person who owns, manages, operates, or otherwise controls a public place or

place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

D. Violation of this Section is hereby declared to be a public nuisance, which may be abated by the _____ [City Manager or County Administrator] by restraining order, preliminary and permanent injunction, or other means provided for by law, and the _____ [City or County] may take action to recover the costs of the nuisance abatement.

E. Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

Section 13. Public Education

The ___[City of]___ shall engage in a continuing program to explain and clarify the purposes and requirements of this Section to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Section 14. Governmental Agency Cooperation

The _____ [City Manager or County Administrator] shall annually request other governmental and educational agencies having facilities within the _____ [City or County] to establish local operating procedures in cooperation and compliance with this Section. This includes urging all Federal, State, _____ [County or City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Section 15. Other Applicable Laws

This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 16. Liberal Construction

This Article shall be liberally construed so as to further its purposes.

Sec. 17. Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Sec. 18. Effective Date

This Ordinance shall be effective thirty (30) days from and after the date of its adoption.

ⁱ U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

ⁱⁱ Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," *Proceedings: Indoor Air 2002*, 2002.

ⁱⁱⁱ Matt, G.E.; Quintana, P.J.E.; Hovell, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez, T.; Floro, J.; Gehrman, C.; Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," *Tobacco Control* 13(1): 29-37, March 2004.

^{iv} Sleiman, M.; Gundel, L.A.; Pankow, J.F.; Jacob III, P.; Singer, B.C.; Destailats, H., "Formation of carcinogens indoors by surface-mediated reactions of nicotine with nitrous acid, leading to potential thirdhand smoke hazards," *Proceedings of the National Academy of Sciences of the United States of America (PNAS)* 107(15): 6576-6581, February 8, 2010.

^v [n.a.], "Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," *Food and Drug Administration (FDA)*, July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> Accessed on: October 22, 2009.

^{vi} Fuoco, F.C.; Buonanno, G.; Stabile, L.; Vigo, P., "Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes," *Environmental Pollution* 184: 523-529, January 2014.

^{vii} Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 31, 2005.

^{viii} Glantz, S.A. & Smith, L., "The effect of ordinances requiring smokefree restaurants on restaurant sales in the United States." *American Journal of Public Health*, 87:1687-1693, 1997; Colman, R.; Urbonas, C.M., "The economic impact of smoke-free workplaces: an assessment for Nova Scotia, prepared for Tobacco Control Unit, Nova Scotia Department of Health," *GPI Atlantic*, September 2001.

^{ix} Graff, S.K., "*There is No Constitutional Right to Smoke: 2008*," Tobacco Control Legal Consortium, 2d edition, 2008.

^x Graff, S.K.; Zellers, L., "*Workplace Smoking: Options for Employees and Legal Risks for Employers*," Tobacco Control Legal Consortium, 2008.

^{xi} "The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.

Analysis:
City of Mountain Brook SmokeFree Air Ordinance
Enacted in 2005

Background

In 2005, Mountain Brook took a stand against exposure to secondhand smoke by providing protections in some public areas and places of employment. Since then, multiple studies, including the 2010 Report from the U.S. Surgeon General, have concluded that there is no safe level of exposure to secondhand smoke and that the only effective way to protect the population from the harmful effects of exposure to secondhand smoke is to implement 100% smokefree environments. In addition, new tobacco products such as smokeless tobacco and e-cigarettes have flooded the market and are serving as gateways to nicotine and other drug addictions.

What are the major gaps in the current smokefree ordinance?

- It does not include a clear list of establishments where smoking is prohibited.
- Includes multiple exemptions such as:
 - Allowing smoking in designated rooms in hotels.
 - Smoking is allowed in any establishment licensed to sell alcoholic beverages for consumption by patrons on the premises, for which, in the usual course of business alcoholic beverage sales constitute more than 40% of the total revenues; provided, however, that said exception shall only apply after 4:00 p.m. on any business day.
 - Smoking is allowed in retail tobacco stores.
 - Smoking is allowed at private functions in public places and in private clubs.
- It allows for any business establishment to designate smoking areas.
- The ordinance does not prohibit the use of e-cigarettes in public places and workplaces.

What is the rationale for strengthening smokefree protections in Mountain Brook?

- To promote positive and healthy lifestyles.
- To support community demand.
- To adopt national smokefree standards.
- To align with the cities of Birmingham, Vestavia Hills, Homewood, and 25 other municipalities in Alabama that have adopted strong smokefree ordinances.
- To address the increasing exposure of children and families to e-cigarettes.
- To lead other cities by example.
- To support a statewide smokefree law.
- To reduce the demand for tobacco products.
- To reduce tobacco use among youth and drive tobacco cessation.

What does a comprehensive smokefree policy include?

A comprehensive smokefree policy is one that prohibits smoking in all workplaces including all hospitality venues and indoor public places. The following are the highlights of a model policy:

- “Smoking” is defined as inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.
- Smoking is prohibited in all enclosed places of employment.
- Smoking is prohibited in all enclosed public places such as: all hotel rooms, restaurants, bars, health care facilities, retail stores, public transit facilities, sports arenas, museums, service lines, common-use areas of multi-unit residential buildings, day care centers, galleries, libraries, private clubs, convention facilities and educational facilities, both public and private.
- The policy does not allow a business to designate separate indoor smoking areas.
- It also limits smoking outdoors, such as within a certain distance of entrances and exits to buildings (recommended 15-25 feet). Many jurisdictions have also restricted smoking in restaurant patios, outdoor arenas and stadiums, parks and playgrounds.
- The policy requires the owner, operator, manager, or other person in control of a place of employment or public place to clearly and conspicuously post “No Smoking” signs.
- Smoking is not regulated in private residences, except when used as a childcare, adult day care, or health care facility.

ORDINANCE NO. 1693

**AN ORDINANCE TO PROHIBIT SMOKING IN ENCLOSED
AREAS WITHIN GOVERNMENT BUILDINGS, LICENSED
BUSINESSES AND NONPROFIT ORGANIZATIONS IN THE
CITY OF MOUNTAIN BROOK, ALABAMA**

WHEREAS, the City Council of the City of Mountain Brook, Alabama has found that numerous studies show that tobacco smoke may be a major contributor to indoor air pollution and that breathing secondhand smoke may be a cause of disease, including lung cancer, in nonsmokers; and

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing secondhand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasm.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

1. As used in this ordinance, the following words and phrases shall have the following meanings:
 - (1) **GOVERNMENT BUILDING:** Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.
 - (2) **LICENSED BUSINESS:** An organization or entity required to obtain a license from the City of Mountain Brook in order to engage in business or conduct business in the City.
 - (2) **NONPROFIT ORGANIZATION:** An organization or entity which is recognized by the United States Internal Revenue Service as a tax-exempt, non-profit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
 - (3) **RETAIL TOBACCO STORE:** A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
 - (4) **PRIVATE CLUB:** A premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization.
 - (5) **PRIVATE FUNCTION:** The rental of a ballroom, restaurant, private club, or other facility for the sole purpose of entertaining, private parties, events or other social functions.
 - (6) **SMOKING:** The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

2. Except as otherwise provided in this subsection, no person shall smoke in an enclosed area within a government building, licensed business or nonprofit organization. This prohibition does not apply to any of the following:
 - (1) Permanently designated smoking rooms in any hotel or motel that pays hotel or motel taxes;
 - (2) Any establishment licensed by the City of Mountain Brook to sell alcoholic beverages for consumption by patrons on the premises, for which, in the usual course of business,

alcoholic beverage sales constitute more than forty per cent (40%) of total revenues; provided, however, that said exemption shall only apply after 4:00 p.m. on any business day.

- (3) Retail tobacco stores;
 - (4) Private functions;
 - (5) Private clubs.
3. Notwithstanding any of the foregoing, nothing shall preclude any business establishment from designating an area in said establishment for smoking if said area is clearly identified, fully separated and apart from all nonsmoking areas, enclosed, and designed so as to ensure that all other areas of said business remain completely free of the byproducts of smoking.
 4. An organization or entity subject to an exception to this ordinance may choose to become subject to the provisions of this ordinance. Upon applying for a license from the city, an entity subject to an exception to this ordinance shall indicate whether or not they choose to be subject to the ordinance.
 5. The owner, operator, manager, or other person in charge of a government building, licensed business or nonprofit organization shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, near all entrances where smoking is prohibited by this ordinance. In any establishment where smoking is allowed under this Ordinance, signs indicated that smoking is permitted and the particular circumstances in which it is permitted shall be clearly and conspicuously posted near each entrance used by the public.
 6. The person in charge of a government building, licensed business or nonprofit organization shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in that place. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.
 7. A person who smokes in an area where smoking is prohibited by the provisions of this ordinance shall be guilty of an ordinance violation, punishable by a fine of at least twenty-five dollars (\$25.00), but not to exceed one hundred dollars (\$100.00).
 8. The owner, operator, manager, or other person in charge of a government building, licensed business or nonprofit organization who fails to comply with the provisions of this Article shall be guilty of an ordinance violation, punishable by:
 - (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
 - (2) fine not exceeding two hundred dollars (\$200) for a second violation within a one (1) year period;
 - (3) A fine not exceeding five hundred dollars (\$500) for a third or subsequent violations within a one (1) year period.
 9. Each day on which a violation of this Ordinance occurs shall be a separate and distinct violation.

10. Jurisdiction for violations of this ordinance shall be with the municipal court. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.
11. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
12. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.
13. **Effective Date.** This ordinance shall become effective January 1, 2006.

ADOPTED: This 28 day of Nov, 2005.



Thomas C. Clark, Jr., Council President

ADOPTED: This 28 day of Nov, 2005.



Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on November 28, 2005, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 29, 2005, at the following public places, which copies remained posted for five (5) days as provided by law:

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road

Joe Muggs Newsstand, 2837 Cahaba Road
Piggly Wiggly Food Store 4, 93 Euclid Avenue



Steven Boone, City Clerk

ORDINANCE NO. 2585

AN ORDINANCE TO RESTRICT THE LOCATION OF CERTAIN BUSINESSES WITHIN FIVE HUNDRED FEET OF ANY SCHOOL, CHURCH, OR RELIGIOUS INSTITUTION OR FACILITY LOCATED WITHIN THE CITY OF HOMEWOOD, ALABAMA.

WHEREAS, the City of Homewood, Alabama (the "City") has previously adopted Ordinance No. 2582 restricting smoking within the City.

WHEREAS, the City desires to further regulate and restrict the location of business defined as vape shops or tobacco shops in Ordinance No. 2582 previously adopted by the City Council.

WHEREAS, the City has determined that, based on public health and safety concerns, the location of vape shops and tobacco shops as defined by Ordinance No. 2582 shall be restricted pursuant to this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Homewood at a regular meeting, duly assembled, a quorum being present, as follows:

Section 1. That no vape shop or tobacco shop, as defined by Ordinance No. 2582, previously adopted by the City Council on the 9th day of November, 2015, shall be permitted or located within five hundred (500) feet of any school, church, or religious institution or facility. For the purposes of this section, the distance between the school, church, or religious institution or facility shall be measured from the closest point of the property on which such school, church, or religious institution or facility is located to the nearest point of the property on which the vape shop or tobacco shop is located.

Section 2. All other Ordinances or parts of Ordinances heretofore adopted by the City Council of the City of Homewood, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 3. That if any part, provision, or section of this ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect.

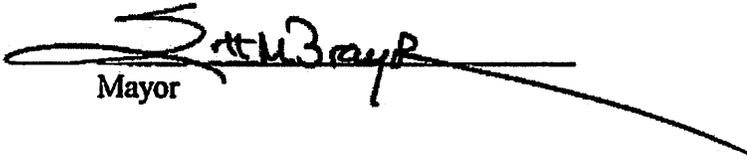
Section 4. This Ordinance shall become immediately effective upon its adoption by the City Council and approval by the Mayor or as otherwise becoming law.

ADOPTED this the 7th day of December, 2015.

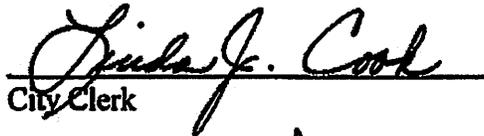


President of City Council

APPROVED:


Mayor

ATTEST:


City Clerk

This notice posted: December 16, 2015

At the following locations: Mayor's Office (City Hall), Homewood Public Library, Homewood Senior Center (Oak Grove Road) and Lee Community Center (Rosedale)

And at www.homewoodal.net.

ORDINANCE NUMBER 2411

AN ORDINANCE TO REPEAL ORDINANCE 2209, ADOPTED JUNE 6, 2005, AND ADOPT IN FULL ORDINANCE NUMBER 2411 TITLED THE “CITY OF VESTAVIA HILLS SMOKE-FREE ORDINANCE OF 2012”

WHEREAS, the Council of the City of Vestavia Hills finds that numerous studies have shown that (1) exposure to secondhand smoke, a known carcinogen, causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) even occasional exposure of adults to secondhand smoke has adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws improve health and do not have an adverse economic impact on, and may positively impact, the hospitality industry.¹

WHEREAS, the Council finds that studies have shown that during periods of active smoking, peak and average outdoor tobacco smoke levels measured in outdoor cafés and restaurant and bar patios near smokers rival indoor tobacco smoke concentrations.² Nonsmokers who spend six-hour periods in outdoor smoking sections of bars and restaurants experience a significant increase in levels of cotinine when compared to the cotinine levels in a smoke-free outdoor area.³

WHEREAS, the Council finds that studies have shown that residual tobacco contamination, or “thirdhand smoke,” from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This sticky, highly toxic particulate matter, including nicotine, can linger in spaces long after smoking has ceased and cling to walls and ceilings and be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. Tobacco residue is noticeably present in dust throughout places where smoking has occurred.⁴

This process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.⁵

WHEREAS, the Council finds that unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. The Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.”⁶ “E-cigarettes” produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

WHEREAS, the Council finds that the Society of Actuaries has determined that secondhand smoke costs the U.S. economy approximately \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.⁷

WHEREAS, the Council finds that there is no legal or constitutional “right to smoke” and that business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke and instead have a common-law duty to provide their workers with a workplace that is not unreasonably dangerous.⁸

WHEREAS, the Council finds that smoking is a potential cause of fires and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic damage to businesses.⁹

NOW, THEREFORE, the Council of the City of Vestavia Hills finds that secondhand smoke is a form of air pollution, a danger to health, and a material public nuisance, and deems it appropriate to enact the following ordinance to (1) protect the public health and welfare by prohibiting smoking in public places and places of employment, (2) guarantee the right of nonsmokers to breathe smoke-free air, and (3) recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Section 1. BE IT HEREBY ORDAINED by the Council of the City of Vestavia Hills that Ordinance 2209, as amended is hereby repealed and the following Ordinance Number 2411 is hereby adopted to read in full as follows:

Section 2. Smoking In Public Places And Places Of Employment

- (a) **Definitions.** In this Section, the following definitions shall apply:
- (1) **“Bar”** means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to: taverns, nightclubs, cocktail lounges, and cabarets.
 - (2) **“Business”** means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
 - (3) **“E-cigarette”** means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an “e-cigarette”, “e-cigar”, “e-pipe”, or under any other product name or descriptor.
 - (4) **“Employee”** means a person who works for an employer, whether in consideration for direct or indirect monetary wages or profit, or as a volunteer.
 - (5) **“Employer”** means a person, association, trust, or a business, including a municipal corporation, with one or more employees.
 - (6) **“Enclosed Area”** means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
 - (7) **“Health Care Facility”** means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical,

physiological, or psychological conditions, including but not limited to: hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

- (8) *“Place of Employment”* means an area under the control of a public or private employer, including, but not limited to: work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.
- (9) *“Private Club”* means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities, requires applications to be completed for membership, and maintains membership records that show the date of application, admission, name and address for each member, and serial number of the membership card issued. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
- (10) *“Public Place”* means an area to which the public is permitted. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.
- (11) *“Restaurant”* means an eating establishment, including but not limited to: coffee shops, cafeterias, sandwich stands, and private and public school cafeterias,

which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

- (12) "Service Line" means an indoor or outdoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to: ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- (13) "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- (14) "Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or other tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an "e-cigarette" which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Section.
- (15) "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.
- (b) **Prohibition Of Smoking In Enclosed Public Places.** Smoking shall be prohibited in all enclosed public places within the City of Vestavia Hills, including but not limited to, the following places:
- (1) Aquariums, galleries, libraries, and museums;
 - (2) Banks;
 - (3) Bar and lounges;
 - (4) Bingo facilities;
 - (5) Child care and adult day care facilities;
 - (6) Convention facilities;
 - (7) Educational facilities, both public and private;
 - (8) Elevators;

- (9) Gaming facilities, including bingo facilities;
- (10) Health care facilities;
- (11) Hotels and motels;
- (12) Laundromats;
- (13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- (14) Polling places;
- (15) Private clubs;
- (16) Professional offices;
- (17) Public transportation vehicles, including buses and taxicabs, under the authority of the City of Vestavia Hills, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
- (18) Restaurants and retail food production and marketing establishments;
- (19) Restrooms, lobbies, reception areas, waiting rooms, hallways, and other common-use areas;
- (20) Retail service establishments;
- (21) Retail stores;
- (22) Rooms, chambers, places of meeting or public assembly, and other enclosed areas and vehicles owned, leased, or operated by the City of Vestavia Hills, including areas under the control of an agency, board, commission, or committee of the City, to the extent the place is subject to the jurisdiction of the City;
- (23) Service lines;
- (24) Shopping malls;
- (25) Sports arenas, including enclosed places in outdoor arenas; and
- (26) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

(c) ***Prohibition Of Smoking In Enclosed Places Of Employment.***

- (1) Smoking shall be prohibited in all enclosed areas of places of employment within the City of Vestavia Hills, including, but not limited to: common work areas,

auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles. This prohibition also applies to rooms, chambers, places of meeting or public assembly, and other enclosed areas and vehicles owned, leased, or operated by the City of Vestavia Hills, including areas under the control of an agency, board, commission, or committee of the City, to the extent the place is subject to the jurisdiction of the City.

- (2) This prohibition on smoking shall be communicated to all existing employees by the effective date of this Section and to all prospective employees upon their application for employment.

- (d) ***Prohibition Of Smoking In Enclosed Residential Facilities.*** Smoking shall be prohibited in the following enclosed residential facilities:

- (1) All private and semiprivate rooms in nursing homes and
- (2) All hotel and motel rooms that are rented to guests.

- (e) ***Prohibition Of Smoking In Outdoor Public Places.*** Smoking shall be prohibited in the following outdoor places:

- (1) Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;
- (2) In, and within 20 feet of, outdoor seating or serving areas of restaurants and bars;
- (3) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 20 feet of, bleachers and grandstands for use by spectators at sporting and other public events;
- (4) In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City of Vestavia Hills; and
- (5) In all outdoor service lines;

- (f) **Exemptions.** Notwithstanding any other provision of this Section to the contrary, smoking shall not be prohibited in private residences, unless used as a child care, adult day care, or health care facility.
- (g) **Declaration Of Establishment Or Outdoor Area As Nonsmoking.** Notwithstanding any other provision of this Section, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 2(h) is posted.
- (h) **Posting Of Signs And Removal Of Ashtrays.** The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Section shall:
- (1) Clearly and conspicuously post “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
 - (2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
 - (3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Section at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
 - (4) Remove all ashtrays from any area where smoking is prohibited by this Section, except for ashtrays displayed for sale and not for use on the premises.
- (i) **Nonretaliation; Nonwaiver Of Rights.**
- (1) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Section or reports or attempts to prosecute a violation of this Section. Notwithstanding Section 2(k), violation of this provision

shall be a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500) for each violation.

- (2) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(j) ***Enforcement.***

- (1) This Section shall be enforced by the county health officer or his or her duly authorized representative, any duly sworn police officer employed by the City of Vestavia Hills, or as otherwise allowed by law.
- (2) Notice of the provisions of this Section shall be given to all applicants for a business license in the City of Vestavia Hills.
- (3) Any resident who desires to register a complaint under this Section may initiate enforcement with an entity responsible for enforcement, such as the Jefferson County Department of Health or Police Department.
- (4) The County Health Department, the Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Section.
- (5) Any owner, manager, operator, or employee of an area regulated by this Section shall direct a person who is smoking in violation of this Section to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.
- (6) Notwithstanding any other provision of this Section, an employee or private citizen may bring legal action to enforce this Section.
- (7) In addition to the remedies provided by the provisions of this Section, the City of Vestavia Hills, the county health officer, or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Section may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

(k) *Violations and Penalties.*

(1) A person who knowingly or intentionally smokes in an area where smoking is prohibited by the provisions of this Section commits an offense, punishable by a fine of fifty dollars (\$50) per offense. A charge of violation shall be treated in the same manner as a traffic violation.

(2) Except as otherwise provided in Section I (1), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Section shall be guilty of an offense, punishable by:

a. A fine of one hundred dollars (\$100) for a first violation. A charge of violation shall be treated in the same manner as a traffic violation.

b. A fine of two hundred dollars (\$200) for a second violation within one (1) year. A charge of violation shall be treated in the same manner as a traffic violation.

c. A fine of five hundred dollars (\$500) for each additional violation within one (1) year. A charge of violation shall be treated in the same manner as a traffic violation.

(3) In addition to the fines established by this Section, violation of this Section by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

(4) Violation of this Section is hereby declared to be a public nuisance, which may be abated by the City of Vestavia Hills, the county health officer, or a designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the entity or person seeking abatement may take action to recover the costs of the nuisance abatement.

(5) Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

(l) ***Other Applicable Laws.*** This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

- (m) **Liberal Construction.** This Section shall be liberally construed so as to further its purposes.

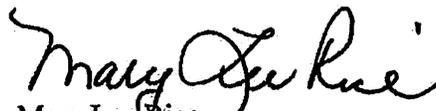
Section 3. Public Education. The City of Vestavia Hills shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to residents affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Ordinance.

Section 4. Governmental Agency Cooperation. The City of Vestavia Hills shall annually request other governmental and educational agencies having facilities within Jefferson and Shelby Counties to establish local operating procedures in cooperation and compliance with this Ordinance. This includes urging all Federal, State, County, and School District agencies to update their existing smoking regulations to be consistent with the current health findings regarding secondhand smoke.

Section 5. Severability. If any word, provision, clause, sentence, paragraph, or subsection of this Ordinance or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction then the remaining provisions of this Ordinance shall be in full force and effect.

Section 6. Effective Date. This Ordinance shall be effective 30 days after approval by the Council of the City of Vestavia Hills and Mayor, and publication should be made as required by law, showing the effective date.

DONE, ORDERED, ADOPTED and APPROVED this the 25th day of June, 2012.

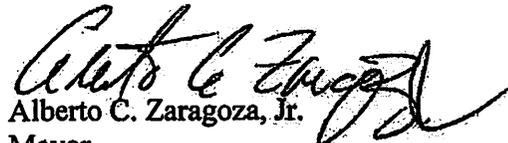

Mary Lee Rice
Council President

ATTESTED BY:



Rebecca Leavings
City Clerk

APPROVED BY:

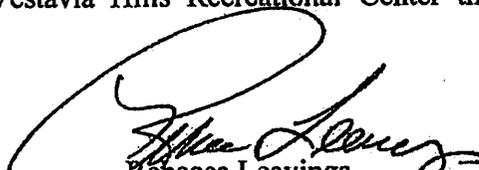


Alberto C. Zaragoza, Jr.
Mayor

CERTIFICATION:

I, Rebecca Leavings, as Acting City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2411 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 25th day of June, 2012, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2012.



Rebecca Leavings
City Clerk

END NOTES:

1. U.S Department of Health and Human Services. "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General." *U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health*, 2006.
2. Klepeis, N.; Ott, W.R.; Switzer, P. "Real-time measurement of outdoor tobacco smoke particles," *Journal of the Air and Waste Management Association*, 57: 522-534, 2007.
3. Hall, J.C.; Bernert, J.T.; Hall, D.B.; St. Helen, G.; Kudon, L.H.; Naeher, L.P.; "Assessment of exposure to secondhand smoke at outdoor bars and family restaurants in Athens, Georgia, using salivary cotinine," *Journal of Occupational and Environmental Hygiene* 6(11): 698-704, November 2009.
4. Singer, B.C.; Hodgson, A.T.; Nazaroff, W.W., "Effect of sorption on exposures to organic gases from environmental tobacco smoke (ETS)," *Proceedings, Indoor Air 2002*, 2002.
5. Matt, G.E.; Quintana, P.J.E.; Hovel, M.F.; Bernert, J.T.; Song, S.; Novianti, N.; Juarez T.; Floro, J.; Gehrman, C.; Garcia, M.; Larson, S., "Households contaminated by environmental tobacco smoke: sources of infant exposures," *Tobacco Control* 13(1): 29-37, March 2004.
6. Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," Food and Drug Administration (FDA), July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> ; accessed on October 22, 2009
7. Behan, D.F.; Eriksen, M.P.; Lin, Y., "Economic Effects of Environmental Tobacco Smoke," *Society of Actuaries*, March 2005.
8. Graff, S.K., "There is No Constitutional Right to Smoke: 2008," *Tobacco Control Legal Consortium*, 2d edition, 2008.
9. "The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997

OTHER SOURCES

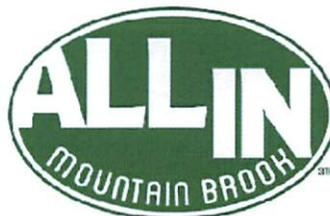
- A. The Alabama Clean Indoor Air Act at Title 22-15A-2 *Code of Alabama*, 1975.
- B. Vestavia Hills Ordinance Number 2009 "An Ordinance to Prohibit Smoking in Public Places, Providing Penalties for the Violation Thereof," adopted on June 6, 2005.

All In Mountain Brook

a 501(3)c community non-profit

c/o 2653 Montevallo Rd
Mountain Brook, Alabama 35223

allinmountainbrook.org
allinmountainbrook@gmail.com



To enhance and protect the lives of Mountain Brook Youth

BOARD OF DIRECTORS

- Jack Young, Chairman
- Leigh Ann Sisson, President
- Dr. Richard C. Barlow
- R. Bruce Barze, Jr.
- Leslie Brown
- Cameron Cole
- Chief Ted Cook
- Alice Churnock
- Donald Clayton
- William Dow
- Elizabeth Dunn
- Suzan Doidge
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- Amanda Hood
- Laurie King
- Dr. Craig Martin
- Rabbi Jonathan Miller
- Carmen Morrow
- Billy Pritchard
- Laura Sink
- Wayne Splawn
- Dan Starnes
- Stephen M. Taylor, M.D.
- Kavita Vasil
- Dale Wisely, Ph.D.

July 5, 2016

Mountain Brook City Council
56 Church Street
PO Box 130009
Mountain Brook AL 35213

Dear Members of the City Council:

We write to express our support for revisions of the city's ordinance which would further restrict smoking in public places in Mountain Brook, along with updating the ordinance to apply to the use of e-cigarettes and related products in public places.

As you know, All In Mountain Brook is a community nonprofit whose purpose is to enhance and protect the lives of Mountain Brook youth. Accordingly, it is consistent with our purpose that we support further restrictions on smoking in public places in Mountain Brook and the addition of language restricting use of e-cigarettes and related products.

We have learned that the use of tobacco products and e-cigarettes and vaping devices is a significant problem among our community's youth. Perhaps surprisingly, in recent years, anonymous surveys conducted at Mountain Brook High School have revealed that our teenagers are *more likely* to indicate that they smoke cigarettes than the level shown on national averages for the survey. For example, in 2014-2015, 27.5% of MBHS seniors said they had smoked cigarettes in the 30 days prior to the survey, while only 19.6% of seniors nationwide said they had.

Furthermore, the same survey results indicate that our teenagers are aware of the great risk associated with smoking. This finding argues for the need for measures beyond simply educating these students about the dangers of smoking. They are aware of the danger. Additional interventions, such as additional community-wide restrictions on public smoking, are needed.

In addition, the data regarding the harmful effects of children's exposure to secondhand smoke are compelling. Secondhand smoke is especially

harmful to young children. Secondhand smoke is responsible for between 150,000 and 300,000 lower respiratory tract infections in infants and children under 18 months of age, resulting in between 7,500 and 15,000 hospitalizations each year. It also causes 430 sudden infant death syndrome (SIDS) deaths in the U.S. annually.

Also troubling is our local data regarding the use of “vaping” and e-cigarettes among our youth. During the 2014-2015 school year, survey results indicated that 12% of Mountain Brook 9th graders, 19% of 10th graders, 25% of 11th graders, and 32% of seniors said they had used an e-cigarette in the 30 days prior to the survey’s administration.

While our students are aware of the risk of regular cigarette-smoking, they are less clear about the dangers of e-cigarettes. 57% indicated on the survey that e-cigarettes pose “no risk” or “slight risk.”

To reduce the number of young people who begin to smoke or use other tobacco products, the American Academy of Pediatrics recommends a number of policy measures, including prohibition of smoking and other tobacco products that produce toxic emission in all workplaces, including bars, restaurants, and in places where children live, learn and play, including sidewalks, recreational and sports facilities, and entertainment venues.

For these reasons, we express our support for revisions of the city’s ordinance which would further restrict smoking in public places in Mountain Brook, along with updating the ordinance to apply to the use of e-cigarettes and related products in public places.

Thank you for your service and for your unwavering support of All In Mountain Brook’s efforts.

Sincerely,

BOARD OF DIRECTORS
ALL IN MOUNTAIN BROOK

Pride Survey

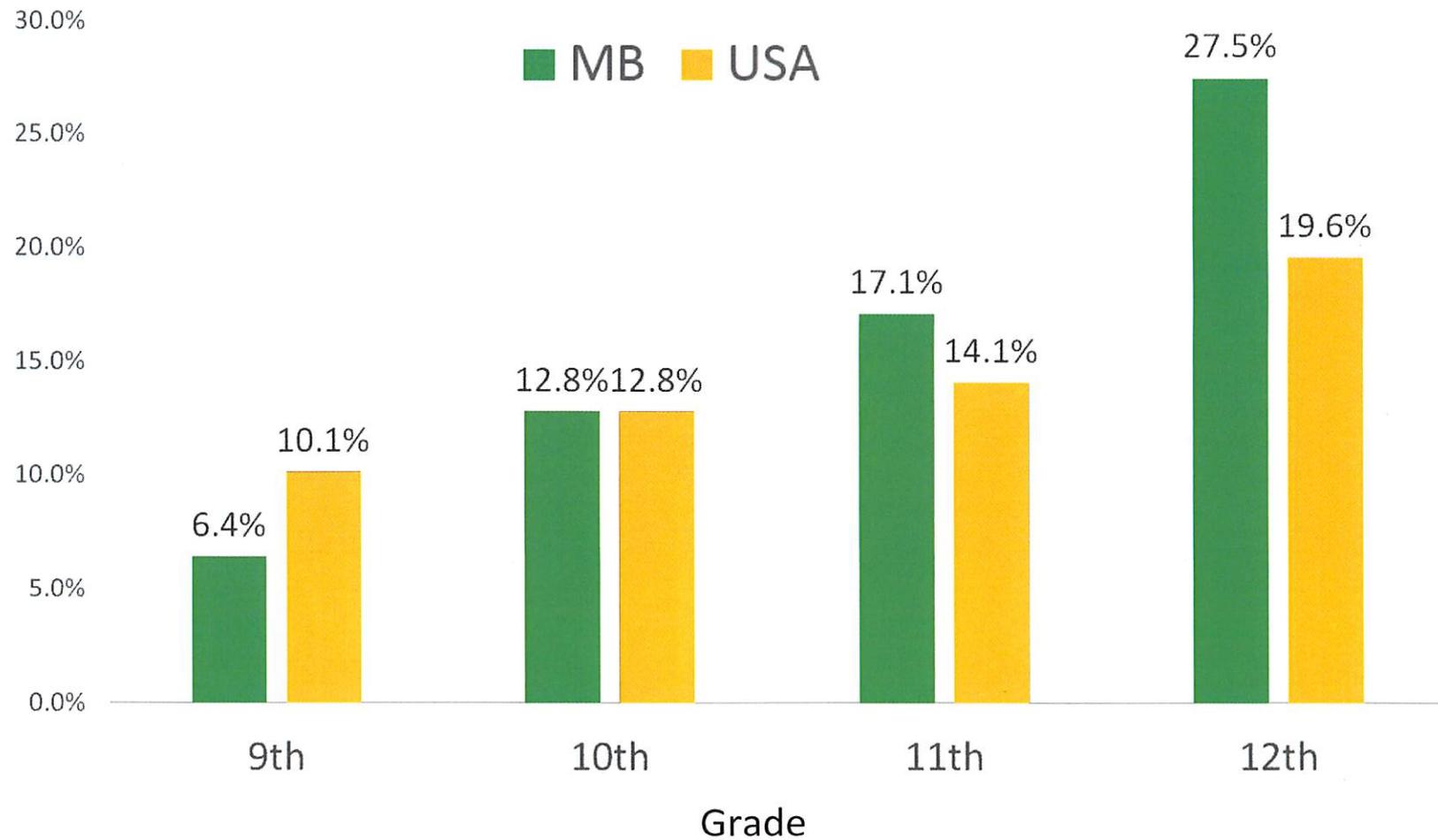
Anonymous survey administered grades 9-12

It surveys a wide range of student-reported behaviors and attitudes regarding substance use and school climate.

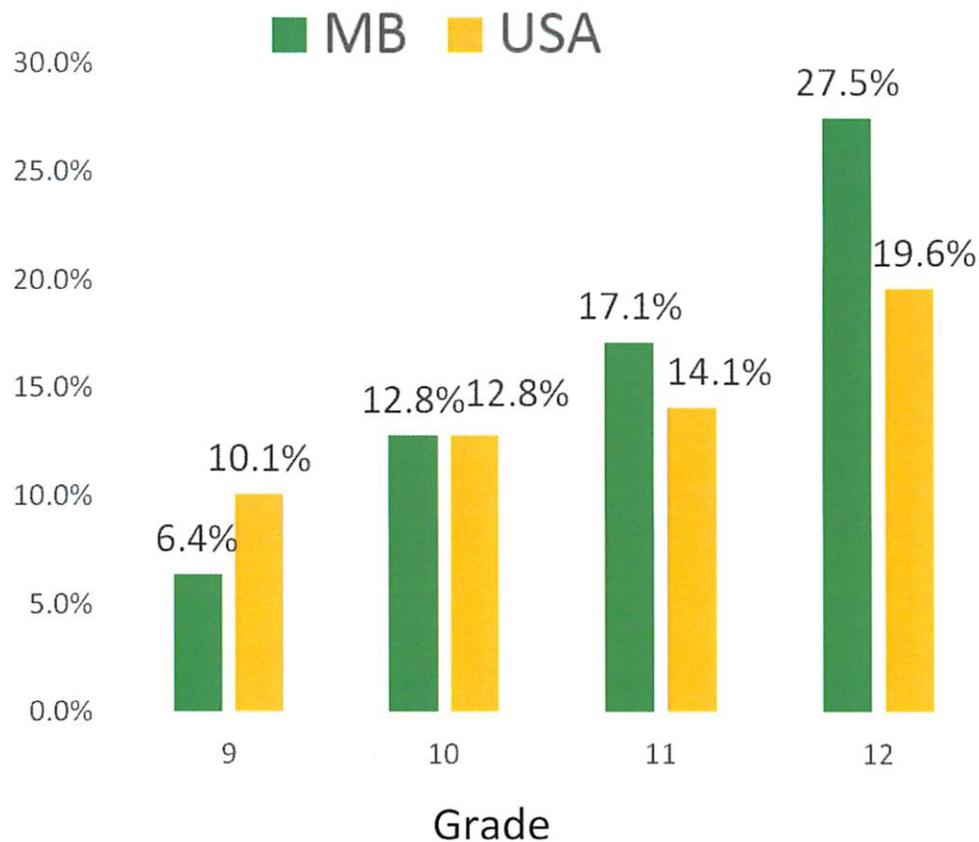
Pride Survey

Smoking-related data from 2014-2015

During the past 30 days did you smoke part of all of a cigarette?



During the past 30 days did you smoke part of all of a cigarette?

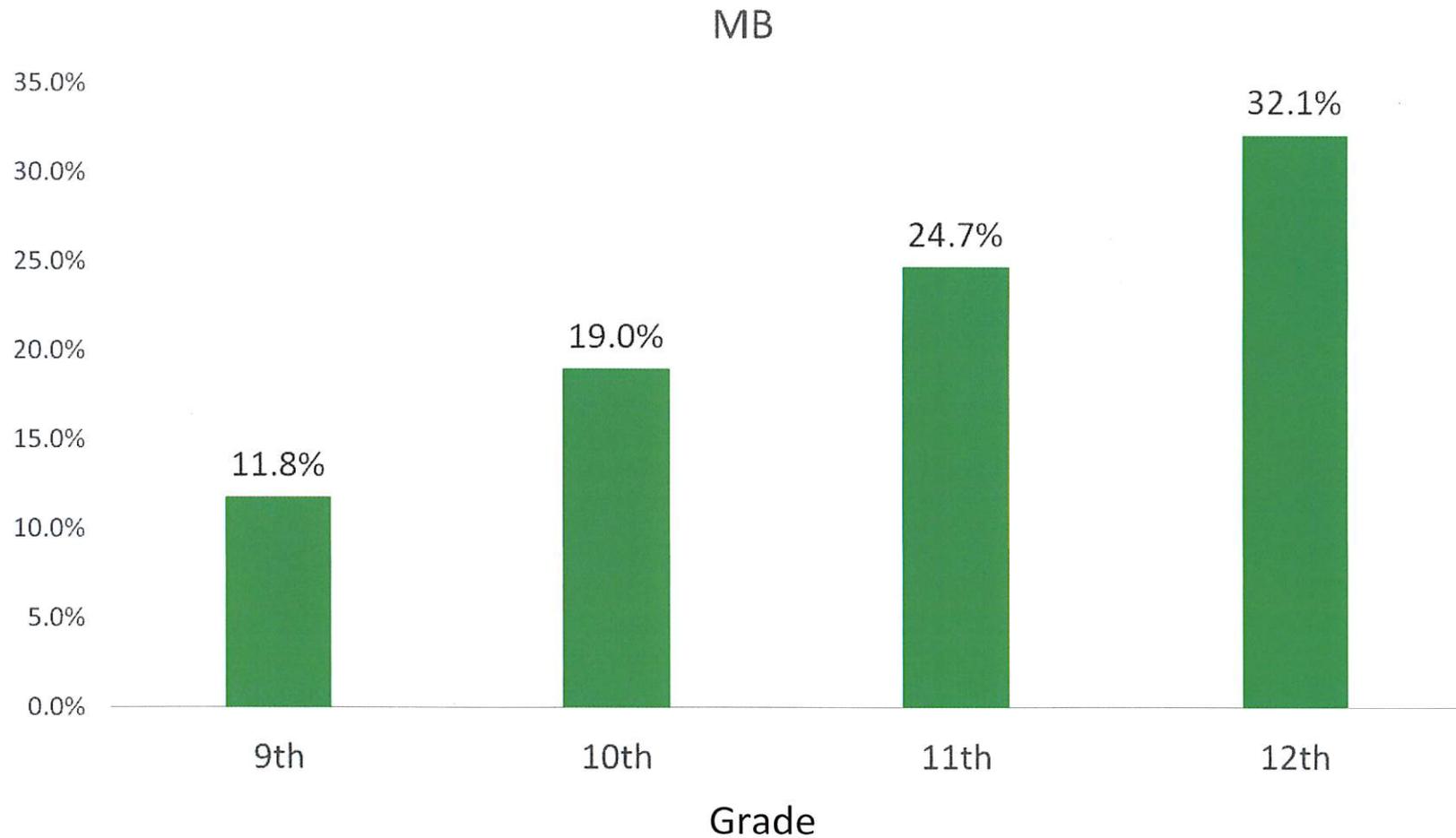


Comment:

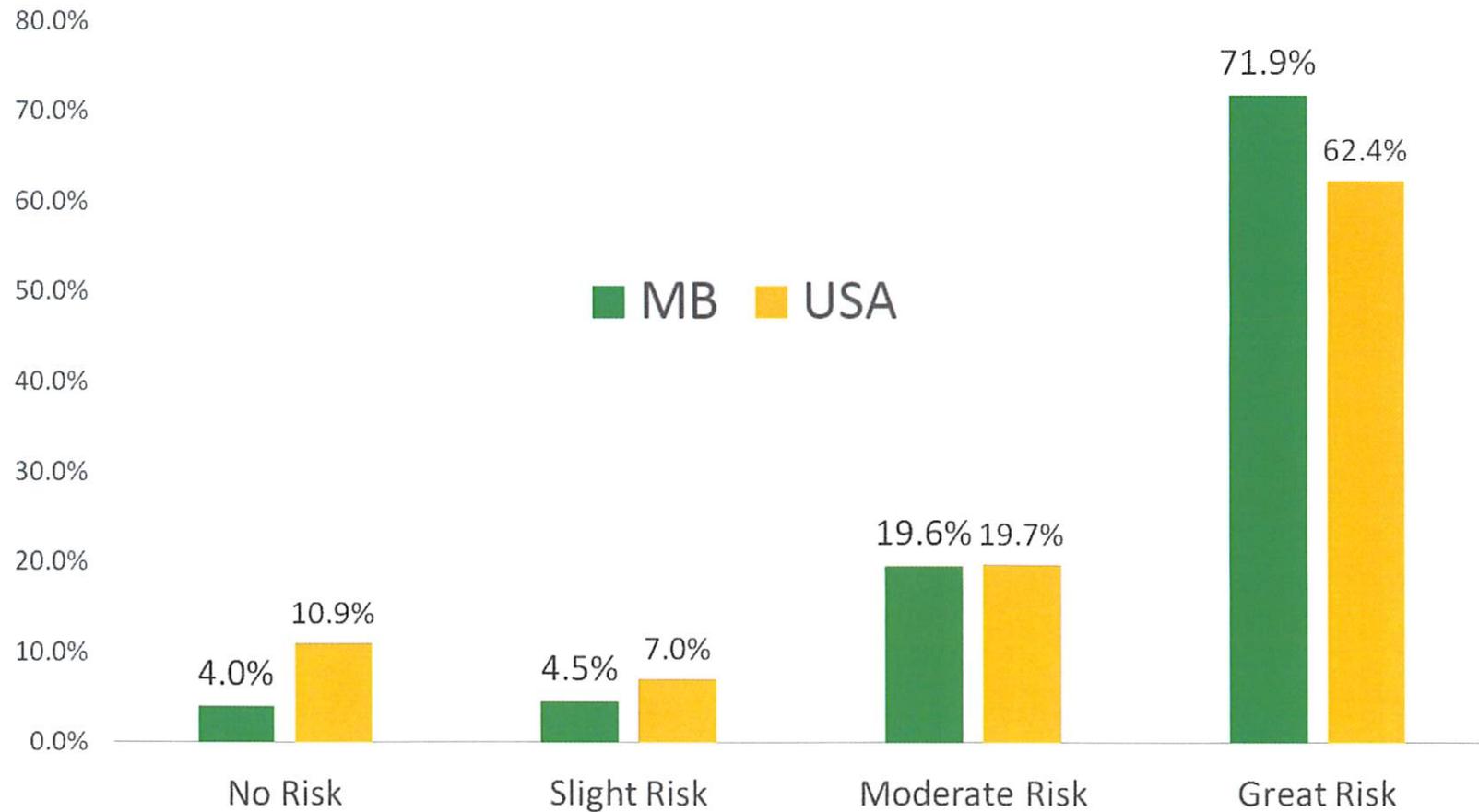
These data indicate that MB teenagers are more likely to say they smoke cigarettes than national averages for high school students.

This has been consistently true in the last several years of surveying.

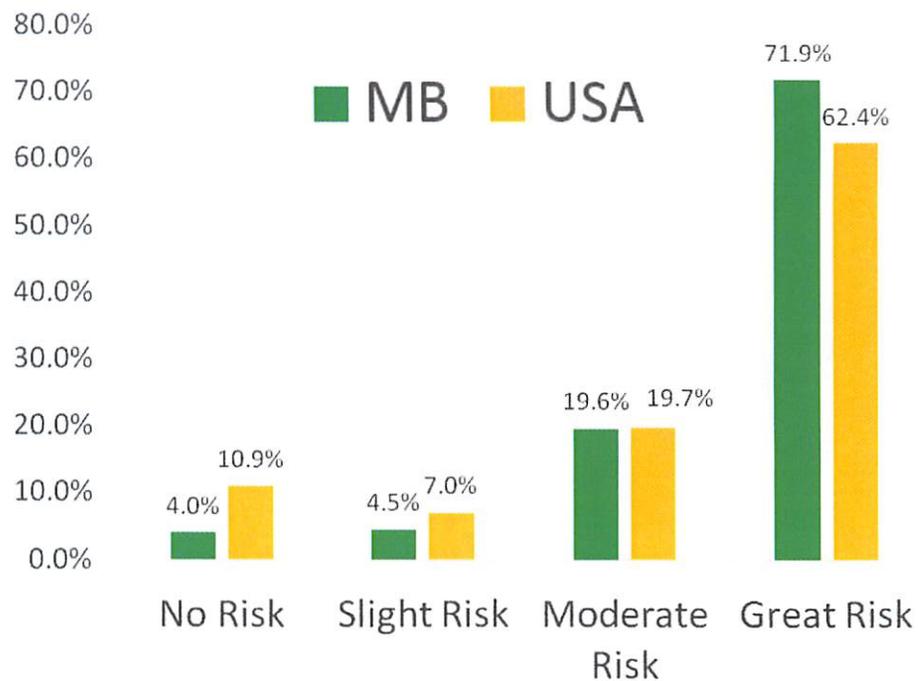
During the past 30 days did you smoke an e-cigarette? (MB)



Perceived risk of 1-2 packs cigarettes/day (Grades 9-12)



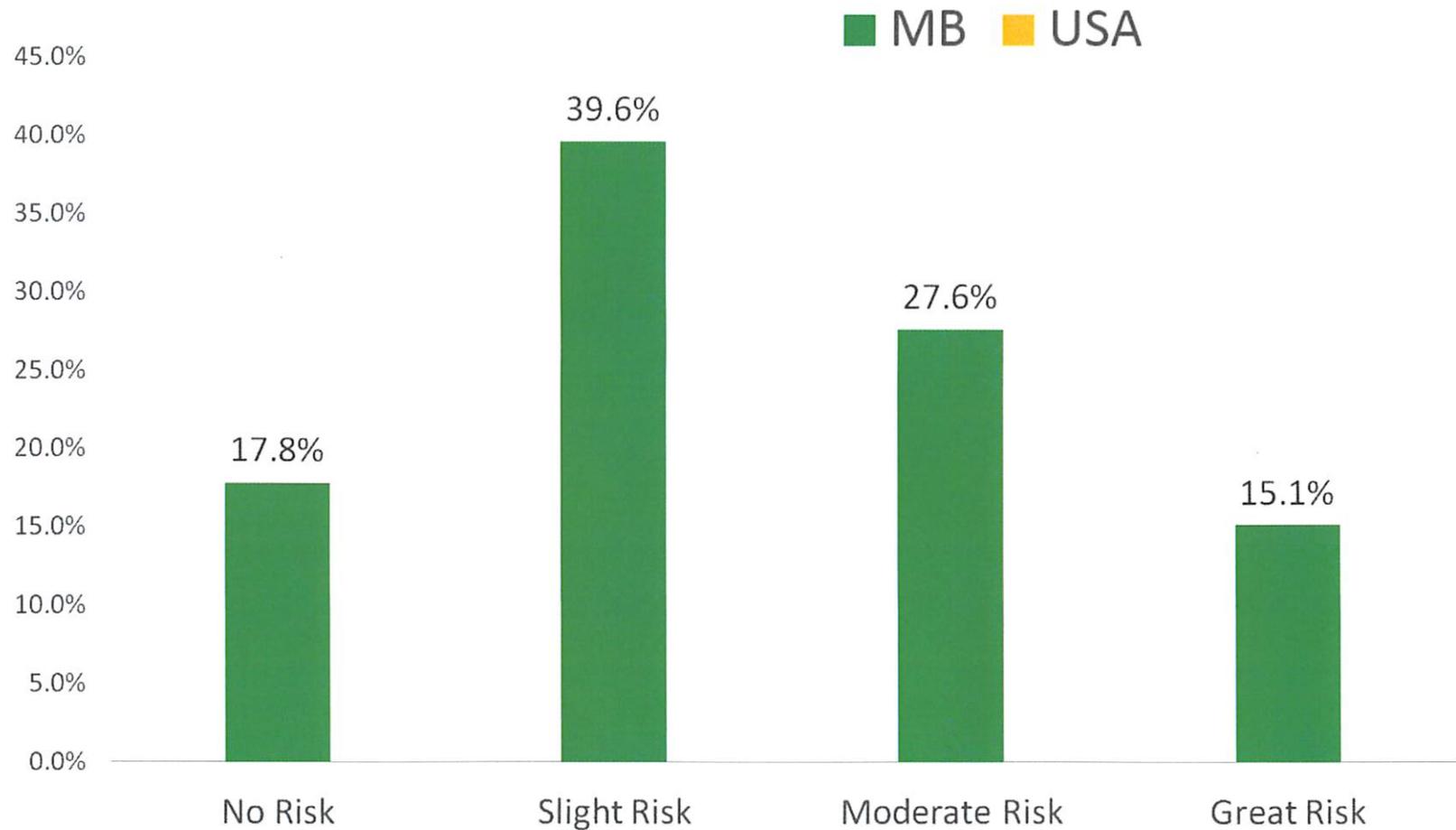
Perceived risk of 1-2 packs cigarettes/day (Grades 9-12)



Comment:

These data indicate that our teenagers are aware of the great risks associated with smoking. Accordingly, as with adult smokers, we are in need of measures beyond just educating and informing about risks.

Perceived risk of e-cigs (MB Gr. 9-12)



June 30, 2016

Sam Gaston
56 Church Street
PO Box 130009
Mountain Brook, Alabama 35213

Dear Sam Gaston,

I want to voice my support for the model ordinance prohibiting smoking in all workplaces and public places for numerous reasons. The first and foremost is my 8 year old daughter. Even she knows that “smoking is bad for you”, and allowing people to use tobacco products (including e-cigarettes) in public places puts her at unnecessary risk for exposure.

As a pediatric healthcare provider, I have personally taken care of children with symptoms of chronic ear infections and increased asthma attacks, as a direct result of exposure to secondhand smoke. Even when caregivers smoked outside the home, there was enough “smoke residue” to trigger health issues for the children who lived there.

I also hope that ALL electronic smoking devices will be part of the same standards as cigarettes. These devices have no regulatory controls of the age of buyer or even ingredients included. They are marketed as being safer than cigarettes although there is no data to support this claim. We do not want any “vaping” shops in our community.

Sincerely,

A handwritten signature in black ink that reads "Julie C. Farmer". The signature is written in a cursive, flowing style.

Julie Cole Farmer

A close-up photograph of a child's face, holding a blue e-cigarette in their mouth. The child's eyes are looking towards the camera. The background is slightly blurred.

reasons why e-cigarettes

ARE NOT SAFE

1 E-cigarettes are a growing trend to substitute cigarettes

- Are battery operated devices
- Modeled to look and feel like cigarettes
- Use an atomizer to heat liquid from a cartridge until it becomes an aerosol
- Produce aerosol containing nicotine, ultra fine particles and low levels of carcinogenic and otherwise toxic materials
- Burns, body-scarring blasts and explosions have been documented as a result of their use

2 E-cigarettes present special dangers to our youth

- They can be purchased without proof of age.
- They are available in flavors including cotton candy, bubble gum, chocolate, strawberry and mint.
- They are appealing to kids and a new route to conventional smoking and nicotine addiction for teenagers.

3 Nicotine poisoning is a serious risk

- Pure nicotine is deadly poison
- A fatal dose of nicotine for an adult is between 50 and 60 milligrams; a fatal dose for children is less. E-cigarettes contain 18 mg to 24 mg per unit.
- The number of calls to poison control centers about e-cigarette nicotine-infused liquids have risen sharply in the last few years. As many as 51% of those calls involved accidental poisoning of kids under the age of 5.

4 E-cigarettes are not a proven Nicotine Replacement Therapy

- Although e-cigarettes are marketed as a “safer alternative to smoking”, they are not approved by the Federal and Drug Administration (FDA)
- Researchers are finding e-cigarette users experience diminished lung function, airway resistance and cellular changes, regardless of whether or not they currently (or ever) smoke cigarettes.

5 The health effects of e-cigarette use are not yet known

- There is no proof that the vapor from e-cigarettes is safe to the user, or for those who breathe their secondhand vapor.



JEFFERSON COUNTY
DEPARTMENT OF HEALTH

**SAFE
KIDS**
ALABAMA



Children's
of Alabama®



Sam Gaston

From: Susan Walley, M.D.
Sent: Wednesday, July 06, 2016 5:06 PM
To: gastons@mtnbrook.org
Subject: Electronic cigarettes/vaping devices

Attachments: AAP Electronic Cigarette Policy Statement.pdf



AAP Electronic
Cigarette Polic...

Mr. Gaston

My name is Dr. Susan Walley. I have been working with Charline Whyte at the Jefferson County Department of Health educating Mountain Brook residents on the dangers of tobacco use and tobacco smoke exposure. As a pediatric hospitalist who cares for children on a daily basis with illnesses caused or worsened by secondhand cigarette exposure, I have significant concerns about the health risks of ALL tobacco products (which include electronic cigarettes). In addition to my clinical responsibilities, I am involved nationally in research and advocacy to protect children from the health harms of tobacco and electronic cigarette use and smoke exposure. Unfortunately, there is a lot of false/missing information about electronic cigarettes as there is virtually no regulation on the production, distribution, marketing and sales of these products.

From a health perspective, the major issues surrounding electronic cigarettes, particularly in regard to youth use and exposure to electronic cigarette vapor are:

- 1) One of the major ingredients in e-cigarette solution is nicotine, which is a known toxin and the substance that makes cigarettes and other tobacco products addictive. Adolescents are more likely to become addicted to nicotine with even occasional use and most adult smokers started smoking as teenagers. Nicotine has been also been shown to act as a "gateway" drug for other substances such as cocaine.
- 2) The nicotine in electronic cigarettes comes in very concentrated amounts (36 mg/cc) so an accidental ingestion of even 1/2 teaspoon (2.5 cc) can kill a child. One child in the United States has already died from an accidental ingestion of electronic cigarette solution.
- 3) The vapor from electronic cigarettes is not "harmless water vapor." Electronic cigarette vapor has been shown to contain the same toxins and carcinogens found in traditional cigarette smoke.
- 4) Currently, electronic cigarettes are not subject to federal regulation so anyone could mix up a batch of electronic cigarette solution and market/sell with words such as "tobacco-free", "healthy" and "safe." This spring, the FDA deemed they will regulate electronic cigarettes like they do other tobacco products, however, this will not go into effect for at least 2 years.

Thank you in advance for your efforts and diligence in keeping Mountain Brook an amazing community to live, work and play in. Please do not hesitate to contact me if you have any questions or thoughts! I have attached the American Academy of Pediatric Policy Statement that I authored on electronic cigarettes (otherwise known as Electronic Nicotine Delivery Systems) for additional information.

Susan

Susan C. Walley, MD, CTTS, FAAP
Associate Professor of Pediatrics
Division of Hospital Medicine
University of Alabama at Birmingham/Children's of Alabama Quality Improvement Director,
UAB Pediatric Residency Chair, COA CME Program 1600 7th Avenue South, Suite 108 McWane

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Electronic Nicotine Delivery Systems

SECTION ON TOBACCO CONTROL

Pediatrics 2015;136;1018; originally published online October 26, 2015;

DOI: 10.1542/peds.2015-3222

The online version of this article, along with updated information and services, is located on the World Wide Web at:

[/content/136/5/1018.full.html](#)

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quickly as the increase in youth ENDS use. Research funding should also focus on public health initiatives, including outcomes evaluations.

CONCLUSIONS

ENDS use is rapidly increasing among youth and, according to the most recent data, ENDS are the most common tobacco product used among youth. ENDS use has the potential to addict youth to nicotine. There are potential health harms to nonusers of ENDS because of its toxicants, including nicotine, carcinogens, and metal particles found in the secondhand and thirdhand aerosol. There has been an increase in unintentional exposures of children with acute nicotine poisoning from a concentrated nicotine-containing ENDS solution, with at least 1 child death from unintentional ingestion of an ENDS solution.

The increasing use of ENDS among youth threatens 5 decades of public health gains in successfully deglamorizing, restricting, and decreasing the use of tobacco products. Health claims of ENDS as smoking cessation aids are currently unsupported by scientific evidence. There is a crucial need for effective local, state, and federal regulation to protect children and youth from ENDS use and exposure to ENDS secondhand and thirdhand aerosol and concentrated nicotine solution.

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ABBREVIATIONS

AAP: American Academy of Pediatrics
e-cigarettes: electronic cigarettes
ENDS: electronic nicotine delivery systems
FDA: US Food and Drug Administration
NYTS: National Youth Tobacco Survey

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b. Counsel parents and caregivers about strategies to reduce exposure to ENDS aerosol, such as instituting bans on ENDS use in the home and car.

The best protection from exposure to ENDS aerosol is for parents and caregivers to not use ENDS. If that is not possible, pediatricians should recommend ENDS-free policies for their home and car.

5. Pediatricians should be familiar with symptoms of acute nicotine poisoning and consider acute nicotine poisoning from ENDS solutions when treating a child with symptoms consistent with acute nicotine poisoning unexplained by other etiologies.

Although most exposures will not require treatment, medical management of severe acute nicotine ingestion is largely symptomatic and supportive. If an exposure occurs or there is concern for exposure, the American Association of Poison Control Centers (1-800-222-1222) should be contacted.

PUBLIC POLICY RECOMMENDATIONS

1. Reduce youth access to ENDS.

a. Ban the sale to and use of ENDS for children and youth younger than 21 years.

Banning the sale of ENDS to youth younger than 21 years will decrease youth access and the potential for nicotine addiction. The AAP recommends 21 years as the minimum legal age of purchase for all tobacco products.

b. Ban Internet sales of ENDS and ENDS solutions.

Prohibition of Internet sales can help regulate the ability to restrict the sale of ENDS to youth. Internet sales of ENDS and ENDS solutions can easily be accessed by minors and used to evade local tobacco control regulations and taxes.

2. Reduce youth demand for ENDS.

a. Ban all flavors in ENDS.

Because flavors have been shown to promote tobacco product use among youth,³⁰ flavoring chemicals, including menthol, should be banned in all ENDS products and solutions. Flavoring chemicals attractive to youth also have the potential to increase risk of ingestion of the ENDS solution by young children.

3. Ban advertising of ENDS in media/Internet/point-of-sale settings that can be viewed by youth.

ENDS advertisements in media, including television, radio and print, billboards, signage, Internet, and point-of-sale (advertisements located where ENDS are sold), promote a positive image of ENDS and encourage youth purchase and use of ENDS. Any promotional activities that can be accessed by children and/or adolescents should be considered advertising to youth.

4. Restrict depictions of ENDS and ENDS use in movies, television shows, and video games. Require any movie, television show, or video game with a depiction of ENDS or ENDS use to have an adult rating.

Tobacco advertisements and promotional efforts in media promote youth tobacco initiation and progression of smoking. Movies, television shows, and video games that depict ENDS or ENDS use should be rated a minimum of R, TV-MA, or Mature, respectively.

5. Protect youth from harms of involuntary ENDS, ENDS solution, and ENDS aerosol exposure.

a. Protect youth and other non-users from secondhand and thirdhand aerosol exposure.

Because ENDS secondhand and thirdhand aerosol contains nicotine and other harmful toxicants, ENDS use should be prohibited in all public spaces. ENDS use should also be prohibited in all locations where children and youth are cared for,

learn, work, and play, including workplaces, restaurants, health care facilities, child care settings, schools, dormitories, entertainment venues, parks, athletic facilities, shopping malls, restaurants, and leisure facilities. School and college campuses should prohibit the sale and use of ENDS. Prohibitions of ENDS should be included as part of tobacco-free and smoke-free laws and policies.

b. Protect children from unintentional nicotine exposure and poisonings.

- i. The size of ENDS concentrated nicotine solution prefilled cartridges and containers should be limited to amounts that would not be lethal to a young child if ingested.
- ii. ENDS solutions containing nicotine should be dispensed in child-resistant packaging.
- iii. Child-resistant caps and other packaging technologies should be used to reduce the risk of exposure to children, including those that restrict the rate and amount of flow of liquid nicotine from a container.⁵⁶

c. Tax ENDS at the same rate as conventional cigarettes.

Smokers, particularly youth, are very price-sensitive⁵⁷; therefore, ENDS and ENDS solutions should be taxed at a rate sufficient to discourage their use among youth and at a level not less than state and federal taxes on conventional cigarettes.

d. Apply funds for public health initiatives to protect youth and to study the health effects of ENDS on users and nonusers.

Research demonstrating the adverse health effects of conventional cigarette use and exposure took decades, while millions of youth and adults died of tobacco-related diseases. It is critical that the funding and development of research on ENDS, ranging from basic science of exposure to effects on public health and youth initiation, progress as

FEDERAL AND STATE ENDS REGULATION

Although federal regulations ban the sale of conventional cigarettes to youth aged <18 years, there are no current federal age restrictions for purchasing ENDS or ENDS products. The American Academy of Pediatrics (AAP) recommends 21 years as the minimum age of purchase for all tobacco products.⁵³ In April 2014, the FDA issued a draft regulation that would extend the agency's tobacco authority to cover the sale and distribution of ENDS and other tobacco products similar to conventional cigarettes. Final action on this regulation is pending. Federal regulations on the content, labeling, and packaging of ENDS and ENDS solutions also do not exist as of publication date. Federal legislation is pending that would give the Consumer Product Safety Commission the authority to require child-resistant packaging on liquid nicotine containers sold to consumers. Some states have already enacted legislation mandating child-resistant packaging for ENDS solutions.

The majority of states have enacted laws prohibiting ENDS sales to minors, and a few states have enacted comprehensive laws that prohibit ENDS use in private worksites, restaurants, and bars.⁵⁴ Updated information on state ENDS laws is available by contacting the AAP Division of State Government Affairs at stgov@aap.org. There is no current federal regulation of Internet ENDS sales. No federal laws prevent ENDS and ENDS solutions from being purchased by anyone over the Internet, regardless of age.

RECOMMENDED ACTIONS FOR THE PEDIATRICIAN

1. Pediatricians should screen for ENDS use and provide prevention counseling in clinical practice.

a. Screen children and adolescents, parents, and caregivers for ENDS use.

Screening for ENDS use and exposure should be incorporated into the

screening for tobacco use. Opportunities to screen include health supervision visits and visits for diseases that may be caused or exacerbated by tobacco smoke exposure, including ENDS secondhand or thirdhand aerosol. Because ENDS products vary widely and are referred to by many names, ask about use of these products by using specific names (eg, electronic cigarettes, e-cigarettes, e-cigs, electronic cigars, electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, vaping devices). For more information (including an ENDS fact sheet), please refer to the AAP Julius B. Richmond Center of Excellence ENDS Web page (<http://www2.aap.org/richmondcenter/ENDS.html>).

b. Counsel children and adolescents about the harms of ENDS and the importance of remaining a nonuser of ENDS and all nicotine-containing products.

As part of tobacco use prevention counseling, pediatricians should include prevention counseling about the known hazards of ENDS and the importance of not initiating use of any nicotine-containing product. Personally relevant messages may include the severity and rapid development of nicotine addiction and health effects from ENDS use, lack of regulation of ENDS products and solutions, and the contaminants in the products.

2. ENDS use should not be recommended as a treatment product for tobacco dependence.

No current evidence supports the efficacy or safety of ENDS as a tobacco dependence treatment product. Tobacco-dependent parents, caregivers, and adolescents should be offered behavioral counseling and support and should be educated on, offered, and/or referred to evidence-based, FDA-approved, tobacco dependence treatment medications as appropriate for the individual's

severity of tobacco dependence and readiness to quit.⁵¹

3. Parents, caregivers, and adolescents who use ENDS should be offered or referred for tobacco cessation counseling and FDA-approved tobacco dependence pharmacotherapies appropriate to their level of addiction and readiness to change.

For further information on tobacco cessation counseling and resources for adults and youth, please refer to the following:

- Clinical Practice Policy to Protect Children From Tobacco, Nicotine, and Tobacco Smoke⁵⁵
- Treating Tobacco Use and Dependence (<http://www.ahrq.gov/professionals/clinicians-providers/guidelines-recommendations/tobacco/index.html>)
- Clinical Effort Against Secondhand Smoke Exposure (<http://www2.massgeneral.org/ceasetobacco/>)
- American College of Chest Physicians Tobacco Dependence Treatment ToolKit (<http://tobaccodependence.chestnet.org/>)

4. Pediatricians should recommend to ENDS users that children should avoid contact with ENDS and ENDS solutions as well as secondhand and thirdhand aerosol exposure.

a. Counsel parents and caregivers that ENDS and ENDS solutions should be stored in child-resistant packaging and out of the reach of children.

Although some states have enacted legislation mandating child-resistant packaging, no current federal regulations exist for child-resistant packaging for ENDS and ENDS solutions. Although counseling should be targeted to prevention of ENDS use, if there are household users of ENDS, pediatricians should counsel parents and caregivers about child-resistant packaging, handling, and storage.

In laboratory studies, neonatal mice exposed to the aerosol from a nicotine-containing ENDS solution had detectable levels of plasma cotinine, a metabolite of nicotine.³⁹ The mice exposed to the ENDS solution containing nicotine had decreased weight gain and impaired postnatal lung growth compared with mice exposed to room air. ENDS solutions have also been shown to be cytotoxic to human embryonic stem cells.⁴⁰ These studies raise concern for harm from in utero exposure and neonatal exposure to nicotine-containing ENDS solution.

THE EFFECTS OF NICOTINE ON THE DEVELOPING BRAIN

Nicotine is highly addictive and is the primary psychoactive component causing addiction in tobacco products.²⁵ Nicotine has neurotoxic effects on the developing brain.^{41,42} In early adolescence, development of executive function and neurocognitive processes in the brain has not fully matured. Adolescents are more likely to engage in experimentation with substances such as cigarettes, and they are also physiologically more vulnerable to addiction.⁴³ Particularly in adolescence, nicotine also has an effect on the brain as a “gateway” drug for cocaine and other illicit drugs.⁴⁴

UNINTENTIONAL ENDS EXPOSURE AND TOXICITY

Nicotine is derived from the tobacco plant and, in addition to being highly addictive, is toxic to humans.²⁵ Nicotine is well absorbed from the respiratory tract, mucosal surfaces, skin, and intestines; thus, nicotine exposure can occur from inhaling, ingesting, or coming in physical contact with a nicotine-containing ENDS solution.^{25,45} Although symptoms of acute nicotine toxicity are generally mild and resolve within 12 hours with no treatment, large exposures can be fatal.⁴⁶ Symptoms of acute nicotine toxicity are similar to those in a nicotine-naïve user and

include fine tremor, nausea, tachycardia, and elevated blood pressure.²⁵ Severe poisonings generally have a biphasic reaction. Early symptoms occur within the first hour of exposure and are characterized by cholinergic excess (increased salivation, vomiting, and diaphoresis); other signs may include cardiac dysrhythmias, seizures, and muscle fasciculations. Late symptoms of severe nicotine poisoning occur between 0.5 and 4 hours and include hypotension, bradycardia, lethargy, and respiratory failure secondary to neuromuscular blockade.

Severe nicotine toxicity in children has been reported with nicotine doses as low as 2 mg.²⁵ ENDS solutions have been advertised to contain as much as 36 mg/mL of nicotine (3.6%).¹⁷ The oral lethal dose of nicotine by body weight that is estimated to kill 50% of adults is projected at between 0.8 and 13 mg/kg.^{25,46} Using the mid-range estimate (6 mg/kg) of a lethal dose of nicotine, an ingestion of the contents of 2 mL (<0.5 teaspoon) of an ENDS concentrated nicotine solution could be fatal to the average 12-kg, 20-month-old child. There is significant risk of pediatric morbidity and mortality with the current unregulated packaging and volume of nicotine concentrations available in ENDS solutions.

There has been an increase in unintentional exposures and poisonings from ENDS in the United States, including inhalations, eye and skin exposures, and ingestions. Calls to poison control centers for ENDS exposures increased from 1 exposure call per month in September 2010 to 215 calls in February 2014.⁴⁵ The majority of ENDS exposures were among children 0 to 5 years of age, and 57.8% of ENDS exposures produced adverse health effects, most commonly vomiting, nausea, and eye irritation.^{45,47} As of publication date, there has been 1 reported child death in the United States from ingestion of a nicotine-containing ENDS solution.⁴⁸ There has also been 1

adult death in the United States from an intentional injection of a nicotine-containing ENDS solution.⁴⁷ In addition, the lithium-ion batteries used in ENDS have reportedly caused explosions and fires, most commonly while the battery is charging. The US Fire Administration has cautioned that, because of the shape and construction of ENDS, battery failure may be more likely to result in an explosion that is propelled like a “flaming rocket.”⁴⁹

DATA ON USE OF ENDS FOR SMOKING CESSATION

ENDS products have been promoted by some manufacturers, either explicitly or implicitly, as a smoking cessation aid, although they are not approved by the FDA as a smoking cessation product.^{3,17} There have been limited studies on its use as a medical device. As of publication date, 1 randomized controlled clinical trial has compared nicotine-containing ENDS, nicotine-replacement therapy (21-mg nicotine patches), and placebo (no nicotine) ENDS.⁵⁰ Six-month cessation rates were low overall, and no statistically significant difference was found among the 3 groups. Notable limitations to the study included inadequate behavioral support for all groups and poor participant adherence with study treatments, which was particularly low in the nicotine patch group. Because these results are from a single study, they should be interpreted with caution, considering the low overall tobacco cessation rates in all 3 study groups. An earlier meta-analysis of tobacco dependence treatments (which did not include ENDS) found that the nicotine patch was effective for the treatment of tobacco dependence, with cessation rates of 23% with the nicotine patch alone.⁵¹ Other population-based studies have found no association between ENDS use and successful cessation of conventional cigarette use.^{4,52} Overall, there is insufficient evidence to recommend the use of ENDS for smoking cessation.

million in 2012, with the majority spent on magazine and television advertisements.¹⁸ Although tobacco advertisements on television have been legally banned since 1971 because of the Public Health Cigarette Smoking Act, there are no current regulations in place limiting ENDS advertisements.¹⁹ Although the current generation of children and adolescents had not previously been exposed to tobacco advertisements on television, youth exposure to television advertisements for ENDS increased by 256% from 2011 to 2013.²⁰ In 2013, 80% of US youth aged 12 to 17 years were exposed to an average of 13 ENDS advertisements over the 1-year period. Driven in part by the significant increase in marketing and promotion, ENDS sales represented a billion-dollar industry in 2013, with some forecasters predicting they will eventually surpass sales for conventional cigarettes.²¹

ENDS SOLUTION COMPONENTS

The solutions used in ENDS products (often referred to as e-liquid or e-juice) can be purchased in prepackaged cartridges or by volume to fill a refillable cartridge. ENDS solutions are also available through Internet vendors, in stores, and places where ENDS products are sold. In addition to concentrated nicotine, components of the ENDS solutions generally include flavoring chemicals and carrier solvents, such as propylene glycol and glycerol.¹ Currently, there are no federal quality standards to ensure the accuracy of ENDS solution constituents as advertised or labeled. The refillable cartridges allow the user to deliver other psychoactive substances, including marijuana.⁴

In addition to nicotine, numerous toxicants and carcinogens harmful to human health have been found in ENDS solutions, including aldehydes, tobacco-specific nitrosamines, metals, tobacco alkaloids, and polycyclic

aromatic hydrocarbons.^{1,22,23} These quantitative and qualitative studies illustrate that there are additional components in ENDS solutions that are unknown to users.

Nicotine is the major psychoactive component of an ENDS solution.¹ In a study of 35 ENDS cartridges and refill solutions, there were substantial discrepancies (as much as 89%) between the label and the actual nicotine content.²⁴ The reported nicotine concentration in ENDS solutions ranges from 0 to 36 mg/mL with cartridges that vary in size.^{5,17} In comparison, a single conventional cigarette contains from 10 to 30 mg of nicotine, although the absorbed nicotine yield for a user is far less, from 0.05 to 3 mg per cigarette.^{25,26} The user's actual nicotine exposure is affected by many factors, including the delivery system, nicotine pharmacokinetics, and individual consumption behavior.^{27,28}

More than 7760 unique flavors of ENDS solutions are advertised, the majority of which are confectionary in nature and appealing to children.^{3,29} Popular options include fruit, candy, and dessert flavors such as "Belgian waffle" and chocolate.^{3,17} The most commonly offered flavors are tobacco and menthol, which are offered by 93% and 92%, respectively, of ENDS brands.³ Because cigarettes with candy and fruit flavoring encourage youth experimentation, regular use, and addiction,³⁰ flavorings (other than menthol) have been banned in conventional cigarettes since the Family Smoking Prevention and Tobacco Control Act of 2009. Although the flavoring chemicals used in ENDS solutions have been cited as "food grade" and "generally recognized as safe," under FDA guidelines, this certification relates only to ingestion, not inhalation.²⁹ A study of ENDS solutions found that many of the flavoring chemicals contain aldehydes (known respiratory irritants) in sufficient concentrations to be of toxicological concern.²⁹

The carrier solvents propylene glycol and vegetable glycerin (glycerol) are used in ENDS solutions to produce an aerosol that, when heated, simulates conventional cigarette smoke.¹ Although these carrier solvents are used in other settings, insufficient data exist on the health effects of repeated long-term inhalation and exposure to these solvents.³¹

ENDS SECONDHAND AND THIRDHAND AEROSOL

The aerosol generated by ENDS is inhaled and then exhaled by the user, and some of the generated aerosol may be directly discharged into the surrounding environment. This aerosol, also referred to as secondhand aerosol or secondhand vapor, can be inhaled by bystanders in a manner similar to secondhand cigarette smoke. Although ENDS advertisers often claim the secondhand aerosol is "harmless water vapor," these claims are false: known harmful toxicants and carcinogens have been found in ENDS emissions.⁴ These include polycyclic aromatic hydrocarbons³² as well as nicotine, volatile organic compounds, ultrafine particles, and particulate matter.³²⁻³⁴ Metal and silicate particles, some of which occur at higher levels than in conventional cigarettes, have also been detected in ENDS aerosol.^{35,36}

Thirdhand aerosol, as with thirdhand smoke, is the residual aerosol that remains on surfaces and in dust after ENDS use; this residual may react with oxidants in the environment to yield secondary pollutants or be reemitted into the gas phase.³⁷ Because nicotine on surfaces has been shown to be increased after ENDS use,³⁸ thirdhand aerosol is another potentially harmful unintentional source of nicotine exposure for youth. ENDS use exposes nonusers, including at-risk populations such as children and pregnant women, to nicotine and other harmful toxicants from secondhand and thirdhand aerosol.

flavoring chemicals, and carrier solvents such as propylene glycol and vegetable glycerin (glycerol) for inhalation by the user. Wide variability exists in ENDS terminology, product design, and engineering. For the purposes of the current policy statement, the term ENDS encompasses devices that are typically battery operated and produce emissions for inhalation. Alternate names for these products include electronic cigarettes, e-cigarettes, e-cigs, electronic cigars, electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, and vaping devices.

Although commonly referred to as a vapor, the emission from ENDS is most accurately referred to as an aerosol, which is a suspension of fine particles in a gas.¹ Despite variations in terminology, ENDS products generally have several common components that include a flow sensor, aerosol generator, battery, and solution storage area.² When a user draws a breath (or “vapes”) from the device, a flow sensor detects the change in pressure and activates the aerosol generator. The generator draws the solution from the storage area and heats and/or mechanically disperses the solution, creating an aerosol. This aerosol is inhaled by the user, who then exhales it. Nonusers can be exposed to the emissions both from the aerosol that is exhaled as well as from the aerosol that is generated from the device. Some ENDS products have a light-emitting diode that simulates the lit end of a conventional cigarette.

There are more than 460 different brands of ENDS, which vary considerably in price, quality, and design.^{3,4} ENDS can be purchased in various retail outlets, including vendors that sell tobacco, “vape” shops, mall kiosks, gas stations, convenience stores, grocery stores, and pharmacies, as well as through Internet vendors. ENDS can be

disposable or reusable; the reusable ENDS products have a rechargeable battery.⁴ The ENDS solution storage containers also vary widely, ranging from prefilled cartridges to tank-style, large refillable cartridges.^{4,5} Although many of the early “first-generation” ENDS were designed to resemble conventional cigarettes, newer ENDS models largely do not and may resemble other common objects such as a pen or flashlight.

EPIDEMIOLOGY OF YOUTH ENDS USE

ENDS use has increased dramatically among youth. The National Youth Tobacco Survey (NYTS) began surveying ENDS use in 2011, asking questions only about e-cigarettes. Ever use (defined by the NYTS as having ever tried an e-cigarette) among middle school students increased from 1.4% in 2011 to 3% in 2013.^{6,7} Current use (defined by the NYTS as use of an e-cigarette at least 1 day in the past 30 days) among middle school students was 0.6% in 2011 and increased to 3.9% in 2014, a 650% increase.^{7,8} Among high school students, ever use increased from 4.7% in 2011 to 11.9% in 2013, and current use increased from 1.5% in 2011 to 13.4% in 2014, an 890% increase.⁶⁻⁹ Other surveys of high school students have found higher current use at 17% to 18%, with ever use as high as 29%.^{10,11} The 2014 NYTS and Monitoring the Future survey both documented for the first time that more teenagers used e-cigarettes in the past 30 days than any other tobacco products, including conventional cigarettes.^{8,11} ENDS use has been documented as highest among male subjects, non-Hispanic white youth, and Hispanic youth.^{8,12}

A 2013 survey of high school students found that e-cigarette-only users had fewer social and behavioral risk factors than conventional cigarette users, raising concern that ENDS are attracting youth who may not otherwise have used tobacco products.¹⁰ In addition, high levels of

dual use of ENDS and conventional cigarettes have been noted in both adults^{13,14} and youth.^{6,9,10,12,15} Among youth, self-reported e-cigarette use was also associated with higher odds of ever or current conventional cigarette smoking.¹⁵ Compared with nonusers, youth who used e-cigarettes perceived them as healthier than cigarettes¹⁰; however, youth using e-cigarettes were less likely to achieve abstinence from conventional cigarettes.¹⁵

Youth exposure to ENDS secondhand and thirdhand aerosol has also potentially increased with the increase in adult ENDS use. The percentage of e-cigarette ever use in adults rose from 3.3% in 2010 to 8.5% in 2013, and current use increased from 1% in 2010 to 2.6% in 2013.¹³ Adult conventional cigarette smokers exhibited the largest growth in ever use of ENDS, increasing from 9.8% in 2010 to 36.5% in 2013.

ENDS MARKETING AND SALES

The increasing awareness, sales, and use of ENDS is being fueled by the marketing and promotion of ENDS in the media, including television, movies, video games, social media, the Internet, radio and print media, billboards, and point-of-sale advertising, as well as by celebrity role models. Advertisements and promotional efforts in broadcast media have been shown to promote youth initiation and progression of tobacco use.¹⁶ ENDS companies have marketed their products with claims of being “healthier” and “safer” than conventional cigarettes; these claims have not been scientifically validated.^{3,17} There are also unsubstantiated claims that ENDS can be used to “smoke anywhere” and both explicit and implicit claims that ENDS are smoking cessation aids (currently unapproved by the US Food and Drug Administration [FDA]).

Among all media outlets, ENDS advertising expenditures increased from \$6.4 million in 2011 to \$18.3



Electronic Nicotine Delivery Systems

SECTION ON TOBACCO CONTROL

abstract

Electronic nicotine delivery systems (ENDS) are rapidly growing in popularity among youth. ENDS are handheld devices that produce an aerosolized mixture from a solution typically containing concentrated nicotine, flavoring chemicals, and propylene glycol to be inhaled by the user. ENDS are marketed under a variety of names, most commonly electronic cigarettes and e-cigarettes. In 2014, more youth reported using ENDS than any other tobacco product. ENDS pose health risks to both users and nonusers. Nicotine, the major psychoactive ingredient in ENDS solutions, is both highly addictive and toxic. In addition to nicotine, other toxicants, carcinogens, and metal particles have been detected in solutions and aerosols of ENDS. Nonusers are involuntarily exposed to the emissions of these devices with secondhand and thirdhand aerosol. The concentrated and often flavored nicotine in ENDS solutions poses a poisoning risk for young children. Reports of acute nicotine toxicity from US poison control centers have been increasing, with at least 1 child death reported from unintentional exposure to a nicotine-containing ENDS solution. With flavors, design, and marketing that appeal to youth, ENDS threaten to renormalize and glamorize nicotine and tobacco product use. There is a critical need for ENDS regulation, legislative action, and counter promotion to protect youth. ENDS have the potential to addict a new generation of youth to nicotine and reverse more than 50 years of progress in tobacco control.

FREE

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The guidance in this statement does not indicate an exclusive course of treatment or serve as a standard of medical care. Variations, taking into account individual circumstances, may be appropriate.

American Academy of Pediatrics Federal advocacy efforts should be coordinated with the AAP Department of Federal Affairs in Washington, DC, and with AAP chapters on state advocacy efforts to protect children from the harmful effects of tobacco use and secondhand smoke exposure.

All policy statements from the American Academy of Pediatrics automatically expire 5 years after publication unless reaffirmed, revised, or retired at or before that time.

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DEFINITIONS

- Secondhand aerosol: emissions from electronic nicotine delivery systems (ENDS) that are discharged into the surrounding environment with ENDS use, both directly from the ENDS and exhaled from the lungs of the user.
- Thirdhand aerosol: ENDS emissions that remain on surfaces and in dust after ENDS use, which can be reemitted into the gas phase or react with oxidants in the environment to yield secondary pollutants.
- ENDS alternate names: electronic cigarettes, e-cigarettes, e-cigs, electronic cigars, e-cigars, electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, and vaping devices.

BACKGROUND

ENDS, including electronic cigarettes (e-cigarettes), are handheld devices that produce an aerosol from a solution typically containing nicotine,

City of Mountain Brook
Attention: Sam Gaston
56 Church Street
Mountain Brook, Alabama 35213

July 6, 2016

Hello Mr. Gaston,

In follow up to our meeting on June 24th, 2016, I would like to express my support for the proposed Smoke Free Model Ordinance in Mountain Brook. Dr. Kevin Alexander will present the ordinance to the council for review on Monday night, July 11th. I regret that I will not be able to attend this meeting.

On Monday, it is my understanding that Dale Wisely will discuss PRIDE survey results showing that our high school children in Mountain Brook are above the national average on reported smoking of cigarettes. They also report seeing little risk in electronic cigarette use for vaping tobacco products. We have our job cut out for us in educating families on the harmful effects of smoking traditional cigarettes, secondhand smoke exposure, smokeless tobacco and e-cigarette use. Also, important to note, while e-cigarettes do not contain smoke, they DO expose others to secondhand emissions.

Increasing popularity and "false" advertising continue in the sale and recreational use of vaping products. I would suggest the council discuss options for zoning that would prohibit vape shops and hookah bars/lounges from purchasing/renting retail space within Mountain Brook city limits. I know Homewood has zoning restrictions for such establishments. A vape shop is a retail outlet specializing in the selling of e-cigarette products. According to the FDA, e-cigarettes are devices that allow users to inhale an aerosol (vapor) containing nicotine and other harmful chemicals. According to the American Cancer Society, hookah is a flavored tobacco. It is smoked out of a 'hookah' water pipe. A hookah bar/lounge allows patrons to share a communal hookah. The cancer society says although many people believe smoking hookah is a safe alternative to cigarette tobacco, it is not. (see attached)

As a pediatric health care provider and mother of three, I know that I do not want my husband, family or friends to be exposed unnecessarily to the health risks associated with tobacco products or the chemicals known to be found in liquid vaping products. I believe the best education we can do at this time is to take a bold stand to strengthen Mountain Brook's smoking ordinance as outlined in the smoke free proposal. And, if the council will consider it, put into place a zoning requirement to keep vaping businesses out of Mountain Brook, as they certainly do not promote a healthy community environment.

Sincerely,



Leslie Brown
133 Cherry Street
Mountain Brook, Alabama 35213
205 527 2930; elbrown133@gmail.com



Waterpipes (Hookahs)

Not a safe alternative to cigarettes

What is Hookah?

- Hookah smoking, long prevalent in the Far and Middle East, involves burning tobacco, passing it through a water-filled bowl and inhaling the smoke through a long hose.
- Waterpipes are known by a variety of names, including: hookah, shisha, boory, goza, narghile, nargile, arghile, and hubble bubble.
- Increasingly, the most common form of tobacco smoked in a waterpipe is called shisha or Maassel, which is sweetened with such flavors as apple, mint, cherry, or cappuccino.

Smoking waterpipes, as well as breathing secondhand smoke from waterpipes, is at least as harmful as exposure to cigarette smoke.

Who Uses Hookah?

- Waterpipes are most common in areas of China, India, Pakistan, and the Eastern Mediterranean Region. However, in the last several years hookah has been gaining in popularity in the United States as well, particularly among college students^{1 2 3} and young adults.^{4 5 6}
- Hookah smoking typically takes place in groups. Hookah bars have been opening with increasing frequency in recent years across the U.S., particularly in college towns and urban areas. The American Lung Association estimated that there were approximately 200-300 hookah bars in the U.S. in 2006,⁷ and that number has likely increased since. More than one in five high school students (20.9%) in one study first learned about hookah by seeing a hookah bar in their community.⁸
- Many hookah smokers have also tried or currently use cigarettes or other tobacco products.^{9 10 11 12 13}
- Among high school seniors, 17% have smoked a hookah in the past year.¹⁴

What are the Health Effects of Exposure to Hookah Smoke?

- While many hookah smokers may be unaware of its health risks or believe that it is less harmful or addictive than cigarette smoking,^{15 16 17 18} this is not the case. Smoking waterpipes, as well as breathing secondhand smoke from waterpipes, is at least as harmful as exposure to cigarette smoke.¹⁹
- Waterpipe smoke, like cigarette smoke, contains significant amounts of cancer causing ingredients, such as arsenic, cobalt, chromium and lead.^{20 21} In addition, smoke from a waterpipe contains carbon monoxide (CO) in amounts equal to or greater than smoke from cigarettes.^{22 23 24 25 26} A review and meta-analysis of existing research found that waterpipe smoking has the same negative effect on lung function as cigarette smoking.²⁷

- **Waterpipe smokers can be exposed to sufficient doses of nicotine to lead to addiction.**^{28 29} A meta-analysis of four studies assessing biomarkers of exposure to nicotine and tobacco smoke among hookah smokers found that using a waterpipe was equivalent to smoking 2-10 cigarettes per day.³⁰ Waterpipe smoke produces similarly increased blood nicotine levels and increases in heart rate as cigarette use.^{31 32}
- **Smokers of waterpipes may be exposed to even more smoke than cigarette smokers**³³ because waterpipe smoking sessions last from 20-80 minutes during which a smoker may inhale as much smoke as that from 100 or more cigarettes.³⁴ One study found that during a typical one-hour waterpipe use session a waterpipe smoker likely generates ambient carcinogens and toxicants equivalent to that of 2-10 cigarette smokers.³⁵
- **Unlike cigarettes, waterpipe smoke may also contain charcoal or wood cinder combustion products** from the heat source used to burn the tobacco, increasing the cancer- and heart-disease causing agents in the smoke.³⁶
- **Waterpipe smoke is associated with increased risk of disease** including cancer, heart disease, lung disease, and adverse effects during pregnancy.³⁷ In addition, the sharing of a waterpipe mouthpiece increases the user's risk for communicable diseases.
- **The World Health Organization (WHO) issued an advisory on waterpipe tobacco smoking** in 2005 addressing the health effects of waterpipe smoking and made several key recommendations related to regulating hookah in a similar manner as other tobacco products.³⁸ This advisory remains in effect.

ACS CAN supports the regulation of all tobacco products and passage of strong smoke-free laws to protect people from the harms of secondhand smoke from all tobacco products. Hookah bars should not be exempt from smoke-free laws that prohibit smoking in public places, including workplaces, restaurants, and bars.

ACS CAN also supports other policies focused on decreasing the use of hookah and other tobacco products. Specifically:

- Hookah tobacco should be taxed at an equivalent rate to cigarettes and other tobacco products, using a price-based approach with a minimum tax;
- Sales of hookah tobacco should be prohibited to minors under age 18;
- Waterpipe and hookah tobacco retailers and hookah bars should be subject to the same licensing requirements as retailers of other tobacco products in the jurisdiction;
- The Food and Drug Administration should assert its authority to regulate hookah tobacco under the 2009 federal Family Smoking Prevention and Tobacco Control Act;
- Flavored hookah tobacco should be prohibited;
- Questions about hookah use should be included on national and state-based surveys, particularly those targeting youth and young adults, to obtain information about the prevalence and patterns of hookah use that can be used to improve tobacco prevention and cessation.

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**AN ORDINANCE TO PROHIBIT THE USE OF WIRELESS TELECOMMUNICATION DEVICES WHILE
OPERATING A MOTOR VEHICLE IN SCHOOL ZONES BETWEEN THE HOURS OF 7:30 A.M. AND 8:00 A.M.
AND BETWEEN THE HOURS OF 2:30 P.M. AND 3:30 P.M.**

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

1. **Provisions.** It shall be unlawful for the driver of a motor vehicle in a School Zone to operate a wireless telecommunication device between the hours of 7:30 A.M. and 8:00 A.M. and between the hours of 2:30 P.M. and 3:30 P.M. Operating a wireless telecommunication device shall include engaging in a call; writing, sending, or reading text-based communications; accessing, reading, or posting to a social network site or accessing or adding any information to the wireless telecommunication device. The provisions of this Section shall only apply within a school zone upon a public road or highway during posted hours when signs are located in a visible manner in each direction that indicate the use of a hand-held wireless telecommunication device is prohibited while operating a motor vehicle.
2. **"Wireless telecommunication device" defined.** "Wireless telecommunication device" means a cellular telephone, a text- messaging device, a personal digital assistant, a stand-alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. A "wireless telecommunication device" shall not include any device or component that is permanently affixed to a motor vehicle. It does not include a hands-free wireless telephone, an electronic communication device used hands-free, citizens band radios, citizens band radio hybrids, commercial two-way radio communications devices, two-way radio transmitters or receivers used by licensees of the Federal Communication Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.
3. **Violations.**
 - (1) Violations of this ordinance shall constitute a moving violation.
 - (2) The first violation of the provisions of this ordinance shall be punishable for a fine of not more than **\$XX**.
 - (3) Each subsequent violation shall be punishable by a fine of not more than **\$XX**.
 - (4) If a person is involved in a collision at the time of the violation, then the fine shall be equal to double the amount of the standard fine imposed in this ordinance and the law enforcement officer investigating the collision shall indicate on the written report that the person was using a wireless telecommunication device at the time of the collision.
4. **Exceptions:** The provisions of this ordinance shall not apply to a person who uses a wireless telecommunication device and does any of the following:
 - (1) Reports a traffic collision, medical emergency, or serious road hazard.
 - (2) Reports a situation in which the person believes his personal safety is in jeopardy.
 - (3) Reports or averts the perpetration or potential perpetration of a criminal act against the driver or another person.

(4) Operates a wireless telecommunication device while the motor vehicle is lawfully parked.

(5) Uses a wireless telecommunication device in an official capacity as an operator of an authorized emergency vehicle.

5. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
6. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.
7. **Effective Date.** This ordinance shall become effective immediately upon adoption, publication as provided by law, and the installation of appropriate traffic signage indicating that such turns are prohibited.

Handheld Device Usage Statistics

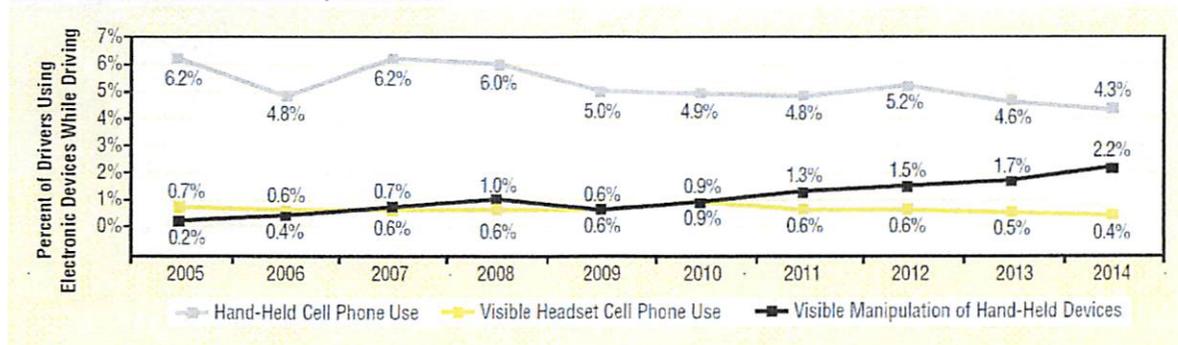
School	Period	Minutes Observed	Using Device	Usage Per minute	Estimated Sample	Device Use Rate	Conflicts	Distracted
Mountain Brook High School	Morning	35	16	0.46	800	2.0%	0	5 (0.6%)
	Afternoon	53	33	0.62	600	5.5%	0	2 (0.3%)
Mountain Brook Junior High School	Morning	44	18	0.41	815	2.2%	0	3 (0.4%)
	Afternoon	49	18	0.37	630	2.9%	1	3 (0.5%)
Brookwood Forest Elementary School	Morning	30	9	0.30	450	2.0%	0	3 (0.7%)
	Afternoon	53	21	0.40	275	7.6%	1	1 (0.4%)
Cherokee Bend Elementary School	Morning	32	4	0.13	120	3.3%	0	1 (0.8%)
	Afternoon	50	12	0.24	120	10.0%	0	3 (2.5%)
Crestline Elementary School	Morning	35	19	0.54	900	2.1%	1	3 (0.3%)
	Afternoon	30	50	1.67	675	7.4%	1	12 (1.8%)
Mountain Brook Elementary School	Morning	28	9	0.32	120	7.5%	0	5 (1.8%)
	Afternoon	54	4	0.07	120	3.3%	0	0 (0.0%)

“Conflicts” were noted whenever a driver using a handheld device either took an action which may have resulted in a crash or caused other drivers to take action which may have resulted in a crash

“Distracted” was noted when the driver was visibly texting or looking down at a handheld device

The chart below shows the national trend on handheld device usage from 2005 to 2014. The cells above with RED entries denotes where the observation was above national average.

Figure 1
Driver Use of Electronic Devices, 2005–2014



Source: NHTSA “Traffic Safety Facts Research Note”, September 2014

PROPOSED SCHOOL ZONE MOUNTAIN BROOK HIGH SCHOOL

7:30-8:00 AM
2:30-3:30 PM



PROPOSED SCHOOL ZONE

7:30-8:00 AM

BROOKWOOD FOREST ELEM. SCHOOL

2:30-3:30 PM



PROPOSED SCHOOL ZONE

7:30-8:00 AM

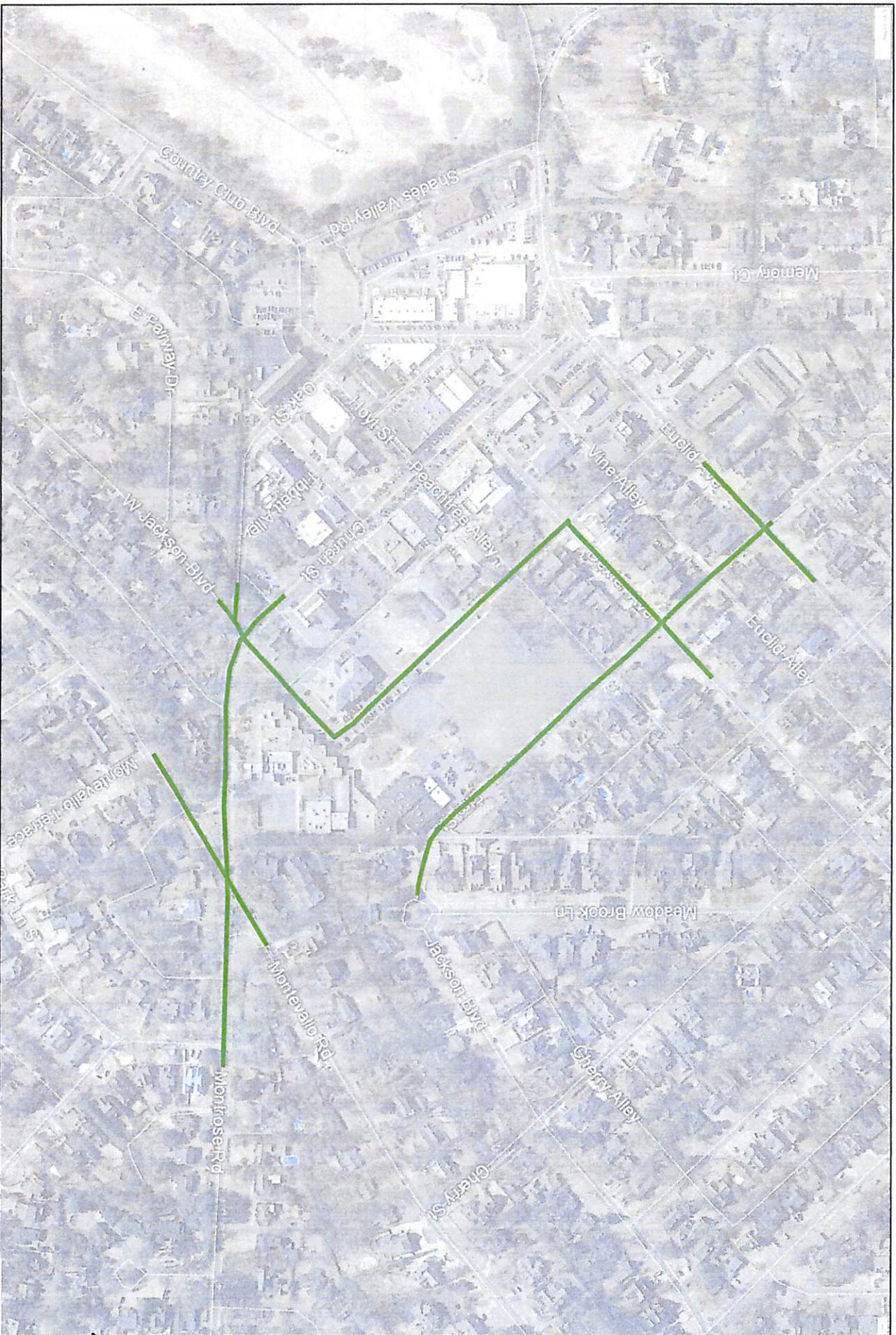
CHEROKEE BEND ELEMENTARY SCHOOL

2:30-3:30 PM



**PROPOSED SCHOOL ZONE
CRESTLINE ELEMENTARY SCHOOL**

**7:30-8:00 AM
2:30-3:30 PM**



PROPOSED SCHOOL ZONE
MOUNTAIN BROOK ELEM. SCHOOL

7:30-8:00 AM
2:30-3:30 PM



PROPOSED SCHOOL ZONE HIGHLANDS SCHOOL

7:30-8:00 AM
2:30-3:30 PM



SIGN ASSEMBLIES FOR THE BEGINNING OF SCHOOL ZONES

WITH NO SPEED LIMIT CHANGE
WITH SPEED LIMIT CHANGE/
NO ACTIVE DEVICES
WITH SPEED LIMIT CHANGE
AND ACTIVE DEVICES



SIGN ASSEMBLY FOR THE END OF SCHOOL ZONES

