

ORDINANCE NO. 2016-005

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 16, ARTICLE I, SECTION 7, CODE OF ORDINANCES TITLED, "SMOKING AND VAPING PROHIBITED IN OUTDOOR AREAS IN TOWN PARKS", PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the Town of Davie is authorized to protect the public health, safety, and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Town Council finds it periodically necessary to amend the Town's Ordinances in order to remain up to date with the advent of new technology; and

WHEREAS, the Office of the Town Attorney desires to amend Chapter 16, Article I, Section 7 of the Town of Davie Code of Ordinances; and

WHEREAS, the proposed ordinance amendment is within the police power of the Town of Davie; and

WHEREAS, the existing language needs to be amended and fails to specifically include electronic vaporizers; and

WHEREAS, The Town Council finds that this Ordinance is necessary for the preservation of the public health, safety, and welfare of the Town's residents; and

WHEREAS, The Town Council deems it to be in the best interest of the citizens and residents of the Town of Davie to adopt the proposed amendments; and

WHEREAS, the Town Council has legally advertised its intent to update Chapter 16, Article I, Section 7 of the Town of Davie Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. The amended Chapter 16, Article I, Section 7, is hereby adopted as set forth in Exhibit "A".

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. This Ordinance shall become effective immediately upon passage and adoption.

PASSED FIRST READING THIS 16<sup>th</sup> DAY OF January, 2016.

PASSED SECOND READING THIS 20<sup>th</sup> DAY OF January, 2016.

Judy Paul  
MAYOR/COUNCILMEMBER

ATTEST:

[Signature]  
TOWN CLERK

Approved for Legal Sufficiency:

[Signature]  
TOWN ATTORNEY

# EXHIBIT "A"

Sec. 16-7. - Smoking and vaping prohibited in outdoor areas in town parks.

- (a) It shall be unlawful for any person to smoke cigarettes, cigars, pipes, use electronic vaporizers, or any other smoking apparatus or vaping device on playing fields and playgrounds, bleacher areas, dugouts, around team seating areas, concession areas, spectator areas, rodeo grounds, restrooms, or any other areas not specifically designated as a permitted smoking area within any park owned and operated by the Town of Davie. All designated smoking areas will be specifically demarcated by signs stating that "smoking is permitted in this area."
- (b) ~~Upon an individual's first violation of this section, a town official or law enforcement officer may issue a warning to any person in violation of the provisions of this section. Any refusal by an individual to comply with this section upon issuance of a warning may result in a notice to appear being issued by a law enforcement officer for the violation and/or removal from the park. Upon the first conviction of this violation, a court of competent jurisdiction may impose a fine of twenty-five dollars (\$25.00). Any person who violates this ordinance shall be subject to a civil fine of \$100.00, for the first violation and \$250.00 fine for subsequent violations. Any refusal by an individual to comply with this section may result in a notice to appear being issued by a law enforcement officer and/or removal from the park.~~
- (c) ~~Any subsequent conviction of a violation of this section may result in additional fines and penalties, including court costs imposed by a court of competent jurisdiction. Any appeals shall be filed with the special magistrate for the Town of Davie and be governed by the rules set forth in the special magistrate.~~
- (e d) This section shall not apply to any person smoking within inside a vehicle within a parking lot located in a town park or playing field. a parking lot located in a town park.

(Ord. No. 2003-013, § 2, 4-2-03)

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

Item Number: 14.

**To:** Mayor and Councilmembers**From:** Allan Weinthal, Attorney, 9547971844**Prepared By:** Allan Weinthal and John Rayson - Town Attorney**Subject:** Ordinance**Affected District:** Town Wide**Item Request:** Schedule for Council Meeting

**Title of Agenda Item:** **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 16, ARTICLE I, SECTION 7, CODE OF ORDINANCES TITLED, "SMOKING AND VAPING PROHIBITED IN OUTDOOR AREAS IN TOWN PARKS", PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on first reading on January 6, 2016. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice Mayor Starkey - yes; Councilmember Hattan - yes; Councilmember Caletka - yes; Councilmember Luis - yes.} (Motion Carried 5-0.)**

**Executive Summary:** Amending Chapter 16, Article I, Section 7 to include electronic vaporizers and adjusting the civil fines.

**Key Points:**

- Including electronic vaporizers.
- First time violators are subject to a civil fine of \$100.00.
- Subsequent violators are subject to a civil fine of \$250.00.

**Previous Actions:**

**Concurrences:** Town Attorney  
Town Administrator  
Code Enforcement

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**Fiscal Impact:**

Has request been budgeted? N/A

If yes expected cost:

Account name and number:

If no, amount needed:

Account name funds will be appropriated from

Additional Comments

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**Recommendation:** Motion to approve

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**Strategic Goals This Item Supports:**

Nurturing the health, safety, and welfare of the community

**ATTACHMENTS:**

File Name	Description
<input type="checkbox"/> <u>Chapter 16 Section 7 Electronic Smoking Devices amendment.docx</u>	Chap. 16 Ord.
<input type="checkbox"/> <u>Sec. 16 7. Smoking prohibited in outdoor areas in town parks.docx</u>	Exhibit "A"

**SUN-SENTINEL**  
Published Daily  
Fort Lauderdale, Broward County, Florida  
Boca Raton, Palm Beach County, Florida  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF: BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared  
**MARK KUZNITZ**, who on oath says that he or she is a duly authorized representative of the SUN-  
SENTINEL, a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County,  
Florida; that the attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting

TOWN OF DAVIE  
Sunday  
01/10  
evelyn roig

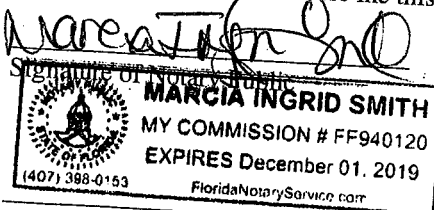
Was published in said newspaper in the issues of; Jan 10, 2016; Jan 11, 2016

3878962

Affiant further says that the said SUN-SENTINEL is a newspaper published in said  
BROWARD/PALM BEACH/MIAMI-DADE County, Florida, and that the said newspaper has  
heretofore been continuously published in said BROWARD/PALM BEACH/MIAMI-DADE County,  
Florida, each day and has been entered as second class matter at the post office in BROWARD  
County, Florida, for a period of one year next preceding the first publication of the attached copy of  
advertisement; and affiant further says that he or she has neither paid nor promised, any person, firm  
or corporation, any discount, rebate, commission or refund, for the purpose of securing this  
advertisement for publication in the said newspaper.

Signature of Affiant

Sworn to and subscribed before me this: January 11, 2016.



Name of Notary, Typed, Printed, or Stamped  
Personally Known (X) or Produced Identification ( )

**NOTICE**  
**TOWN OF DAVIE, FLORIDA**  
Notice is hereby given that on January 20, 2016, at 6:30 p.m., or as soon thereafter as practicable, at the Town Hall, 6591 Orange Drive, the Town Council of the Town of Davie will hold a public hearing to consider the proposed ordinances listed below and, at which time, interested parties may appear and be heard with respect to the ordinances. Copies of the proposed ordinances may be inspected by the public at the Office of the Town Clerk during business hours of the Town of Davie.

**AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 13, ARTICLE III, SECTION 57, CODE OF ORDINANCES TITLED, "SALE OF ELECTRONIC VAPORIZERS TO MINORS," PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.**

**AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 16, ARTICLE I, SECTION 7, CODE OF ORDINANCES TITLED, "SMOKING AND VAPING PROHIBITED IN OUTDOOR AREAS IN TOWN PARKS," PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.**

**AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CREATING CHAPTER 16, ARTICLE I, SECTION 8, CODE OF ORDINANCES TITLED, "USE OF ELECTRONIC VAPORIZERS," PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.**

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THIS BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSES, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 797-1020 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD).  
01/10, 01/11/2016