

ORDINANCE NO. 2014 – __

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, URGING THAT RETAILERS IN THE CITY OF CORAL GABLES REFRAIN FROM THE SALE AND MARKETING OF ANY AND ALL FLAVORED TOBACCO PRODUCTS; URGING FEDERAL AND STATE GOVERNMENTS TO TAKE FURTHER ACTION PROHIBITING FLAVORED TOBACCO PRODUCTS; AND DIRECTING THE POLICE DEPARTMENT TO REVIEW SCOPE OF LAWFUL AUTHORITY, IN CONJUNCTION WITH THE CITY ATTORNEY AND POLICE LEGAL ADVISERS, AND PRIORITIZE ENFORCEMENT OF CURRENT PROHIBITIONS AND REGULATIONS TO THE FULL EXTENT OF FEDERAL AND STATE LAW

WHEREAS, the City Commission finds that flavored tobacco products have become increasingly popular in the U.S.; and

WHEREAS, flavored tobacco products containing flavors such as vanilla, orange, chocolate, cherry, and coffee, are especially attractive to youth; and

WHEREAS, flavored tobacco products are widely considered to be “starter” products, which establish smoking habits that can lead to a lifetime of addiction; and

WHEREAS, almost 90% of adult smokers began smoking as teenagers, according to the Florida Department of Health; and

WHEREAS, like all tobacco products, flavored tobacco products have serious health risks and are not considered safe by the U.S. Food & Drug Administration (the “FDA”); and

WHEREAS, in 2004, 22.8% of 17-year old smokers reported using flavored cigarettes over the past month, as compared to 6.7% of smokers over the age of 25 — according to the FDA; and

WHEREAS, a poll conducted in March of 2008 found that one in five youngsters between the ages of 12 and 17 had seen flavored tobacco products or ads while only one in ten adults reported having seen them; and

WHEREAS, according to one study of youth smokers between the ages of 13 and 18, 52% of those who had heard of flavored cigarettes reported an interest in trying them and nearly 60% thought that flavored cigarettes would taste better than regular cigarettes;

WHEREAS, studies of youth expectations around other flavored tobacco products such as bidis and hookahs have found that young smokers report choosing flavored products over cigarettes because they “taste better” and are perceived to be “safer”; and

WHEREAS, according to the FDA, tobacco industry documents reveal patterns of designing flavored cigarettes to target youth; and

WHEREAS, all tobacco products, including flavored tobacco products, are equally addictive and carry the same health risks as regular tobacco products; and

WHEREAS, an estimated 443,000 Americans die prematurely each year due to smoking and exposure to second-hand smoke; and

WHEREAS, forty-one State Attorneys General sued a tobacco company selling flavored cigarettes, arguing that such sales violated the 1998 Master Settlement Agreement by targeting youth; and

WHEREAS, the settlement of that litigation included an agreement that the tobacco company stop marketing flavored cigarettes; and

WHEREAS, Florida Senate Bill 224, which became law in 2014, extends current prohibitions related to tobacco products to prohibit the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18, and defines a “nicotine product” as any product that contains nicotine, including liquid nicotine, that is intended for human consumption, whether inhaled, chewed, absorbed, dissolved or ingested by any means; and

WHEREAS, in 2009, Congress passed H.R. 1256, the Family Smoking Prevention and Tobacco Control Act of 2009 (Public Law 111-31), which, among other provisions, prohibited the manufacture and sale of flavored cigarettes; and

WHEREAS, while the Family Smoking Prevention and Tobacco Control Act prohibits flavored cigarettes, no comparable federal prohibition exists for flavored non-cigarette tobacco products; and

WHEREAS, a number of local governments in Florida, including the City of Opa Locka and the City of Miami Gardens, have passed resolutions urging tobacco retailers to stop the sale and marketing of flavored tobacco products; and

WHEREAS, local jurisdictions such as New York City, Providence, Rhode Island, and Santa Clara County, California, have passed legislation imposing restrictions on the sale of flavored non-cigarette tobacco products; and

WHEREAS, the authority of state and local governments to restrict the sale of these tobacco products has been upheld in federal court; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

SECTION 2. That the City Commission hereby urges retailers in the City of Coral Gables, Florida to refrain from the sale and marketing of any and all flavored tobacco products, including but not limited to cigarettes, cigars, and smokeless tobacco products prepared in such a manner with the purpose of chewing, inhaling, smoking, or ingesting in any manner.

SECTION 3. That the City Commission hereby urges the federal and state governments to prohibit the sale and marketing of all flavored tobacco products.

SECTION 4. That the City Commission directs the police department, in conjunction with the City Attorney and police legal advisers, to determine the scope of the City’s lawful authority to enforce prohibitions and regulations on flavored tobacco products, including prohibitions on marketing and sales to minors, and to prioritize enforcement of these provisions to the full extent of federal and state law.

SECTION 5. That said Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D., 2014.

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY