CITY of ALBUQUERQUE TWENTY-FIRST COUNCIL

COUNCIL	. BILL NO. <u>F/S 0-13-1</u> ENACTMENT NO
SPONSO	RED BY: Don Harris
1	ORDINANCE
2	DETERRING THE SALE OF VAPOR PRODUCTS.
3	BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
4	ALBUQUERQUE:
5	SECTION 1. The Sale of Vapor Products to Children Ordinance is hereby
6	adopted to read as follows:
7	"Section 1. SHORT TITLE. This Ordinance shall be known and may be
8	cited as the 'Sale of Vapor Products to Children Ordinance.'
9	Section 2. PURPOSE
10	The use of vapor products has doubled among middle and high school
11	students from 2011 to 2012. A survey by the Centers for Disease Control and
12	Prevention found that about one in ten high school students admitted to using
13	vapor products. The city can implement protections faster than the State or
14	Federal government. The city can adapt more quickly to changes to the
15	products that the manufactures or vendors may make to take their products
16	outside the scope of this ordinance. Council finds it is reasonable to conclude
17	that the use of vapor products is a gateway to the use of tobacco products
18	which are extremely detrimental to the health of all persons, particularly
19	children.
20	Section 3. DEFINITIONS
21	CHILD or CHILDREN shall mean persons under 18 years of age. The
22	singular and plural shall include one another.
23	[ELECTRONIC SMOKING DEVICE means any product or device containing
24	or delivering nicotine or any other similar substance intended for human
25	consumption that can be used by a person to simulate smoking through
26	inhalation of vapor, vapor product or aerosol. Electronic smoking device

1	includes any component part of such product or device whether or not sold
2	separately, including but not limited to vapor products. "Electronic smoking
3	device" does not include any product that has been approved by the United
4	States Food and Drug Administration for sale as a tobacco cessation product
5	and is being marketed and sold solely for the approved purpose.]
6	VAPOR PRODUCT [shall mean any product that employs a mechanical
7	heating element, battery or circuit, regardless of shape or size, and can be
8	used to heat a liquid nicotine solution including, without limitation, e-
9	cigarettes, electronic cigarettes, electronic cigars, electronic cigarillos or
10	electronic pipes. The definition does not include any product regulated by the
11	United States Food and Drug Administration under Chapter V of the Federal
12	Food, Drug and Cosmetic Act. means any product or substance that contains
13	nicotine or a similar substance, and is intended for human consumption or is
14	likely to be consumed using an electronic smoking device. "Vapor product"
15	does not include any product specifically approved by the U.S. Food and Drug
16	Administration for sale as a tobacco cessation product that is being marketed
17	and sold solely for the approved purpose.]
18	Section 4. VIOLATION
19	It is a crime punishable pursuant to section 1-1-99 of this code of

It is a crime punishable pursuant to section 1-1-99 of this code of ordinances for any person or entity to [offer for sale or] sell[, offer to sell, barter or give] any [electronic smoking device or] vapor product to any child in the city limits of the City of Albuquerque."

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. This Ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.