

ORDINANCE NO. F-1887

**AN ORDINANCE AMENDING CHAPTER 26 “BUSINESSES,” ARTICLE V
“TOBACCO”, SECTION 26-131 “DEFINITIONS,” “TOBACCO PRODUCTS”**

WHEREAS, the City of Wheaton regulates tobacco products in Article V “Tobacco” of the Wheaton City Code; and

WHEREAS, one of the primary active ingredients in tobacco products is nicotine; and

WHEREAS, new nicotine products, consumed in non-traditional manners, (“alternative nicotine products”) have come to market; and

WHEREAS, the Mayor and City Council of the City of Wheaton have concluded that the regulation of alternative nicotine products should be subject to the same standards as traditional tobacco products; and

WHEREAS, the Mayor and City Council have determined that the control of alternative nicotine products through the Tobacco Ordinances is in the best interest of the public health, safety and welfare; and

WHEREAS, the control of alternative nicotine products can be accomplished by the amendment of the definition of tobacco products in Article V of the Wheaton City Code.

NOW THEREFORE BE IT ORDAINED, by the Mayor and City Council of the City of Wheaton, pursuant to its home rule authority, that the definition of “Tobacco Products” set forth in Section 26-131, “Definitions,” of Article V “Tobacco,” of Chapter 26 “Businesses” of the Wheaton City Code is hereby amended by repealing and rescinding the definition of “Tobacco Products” in its entirety and replacing it with a new definition to be entitled “Tobacco Products” which shall read as follows:

SECTION 1: Tobacco Products

Tobacco Products shall mean:

1. Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, loose tobacco, pipe tobacco, snuff, chewing tobacco or dipping tobacco; or
2. Any alternative nicotine product consisting of or containing tobacco, or a constituent of tobacco, or any synthetic nicotine product, or any device that provides for the ingestion into the body of an alternative nicotine product, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by other means, including but not limited, to e-cigarettes, e-smoking devices, wax vape pens or any cartridge or component

of an alternative nicotine product containing, or which may be filled or refilled with an alternative nicotine product, but excluding any product approved by the United States Food and Drug Administration as a tobacco cessation product, tobacco dependency product, or other medical purposes, and marketed solely for that approved purpose.

SECTION 2: If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

SECTION 3: Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

SECTION 4: This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

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ATTEST:


City Clerk


Mayor

Roll Call Vote

Ayes:	Councilwoman Fitch Councilman Prendiville Councilman Rutledge Mayor Pro Tem Sues Councilman Scalzo
Nays:	None
Absent:	Mayor Gresk Councilman Scalzo

Passed: October 5, 2015
Published: October 6, 2015