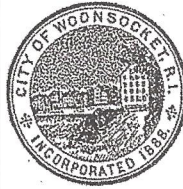


City of Woonsocket Rhode Island



June 5, A.D. 2017

Ordinance

Chapter

AMENDING CHAPTER 13 ENTITLED, "LICENSES AND PERMITS" OF THE CODE OF ORDINANCES, CITY OF WOONSOCKET

- WHEREAS, Cigarette smoking is dangerous to human health. Scientific evidence exists that the use of tobacco products causes cancer, heart disease and other medical disorders; and
- WHEREAS, The Surgeon General of the United States of America has declared that nicotine addiction from tobacco is the most widespread example of drug addiction in this country. The National Institute of Drug Abuse concluded that the majority of the 320,000 Americans who die each year from cigarette smoking became addicted to nicotine as adolescents; and
- WHEREAS, The Rhode Island General Assembly declared that the use of tobacco by Rhode Island children is a health and substance abuse problem of the utmost severity. State Tobacco retailers illegally sell over 900,000 packs of tobacco products to children annually, which equals 2,500 packs a day. According the Center for Disease Control (CDC), the smoking-related direct medical cost in the state has climbed to over \$186,000,000.00. This a health and economic drain created by each new generation of children who begin using tobacco products and become addicted to nicotine; and
- WHEREAS, The City Council has the responsibility and authority to regulate, conduct and legislate on matters of local concern affecting public health, safety and welfare. Sitting as the board of license commissioners, the Council has the authority to issue, suspend or revoke tobacco licenses when violations are presented to them.

IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOONSOCKET, RHODE ISLAND AS FOLLOWS:

- SECTION 1.** That Section 13-3 entitled, "Fee Schedule" of Chapter 13, entitled, "Licenses and Permits" of the Code of Ordinances, City of Woonsocket is hereby amended ~~by adding the following section as follows:~~

Class: Tobacco Product License
Term: 1 year
Date due or issued: July 1st
Fee: ~~\$75.00~~ \$250.00

- SECTION 2.** That Section 13-13 entitled, "Tobacco Product License" of Chapter 13, entitled, "Licenses and Permits" of the Code of Ordinances, City of Woonsocket is hereby amended ~~by adding the following section as follows:~~

- SECTION 3.** Definitions.

Board of licenses means the Woonsocket City Council sitting as the Board of License Commissioners.

Characterizing flavor means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or winter green imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that no tobacco product shall be determined to have characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

Cigar means any roll of tobacco other than Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than four pounds per thousand.

Cigarette means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition.

Component part means any element of a tobacco product, including, but not limited to, the tobacco, filter, and paper, but not including any constituent.

Constituent means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, which is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

Consumer means a person who purchases a tobacco product for consumption and not for sale to another.

Coupon means any voucher, rebate, card, paper, note, form statement, ticket, image, or other issue; whether in paper, digital, or other form; used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

Distinguishable means perceivable by an ordinary consumer by either the sense of smell or taste.

Flavored tobacco product means any tobacco product, other than a cigarette, that contains a constituent that imparts a characterizing flavor.

Full retail price means the higher of the price listed for a tobacco product on its packaging or the price listed on any related shelving, posting, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price, and before the application of any discounts or coupons.

Little cigar means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than four pounds per thousand. "Little Cigar" includes, but is not limited to, tobacco products known or labeled as "small cigar" or "little cigar."

Non-cigarette tobacco product means a tobacco product that is not a cigarette.

Package or packaging means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

Person means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity.

Sale or sell means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

Smoke constituent means any chemical or chemical compound in mainstream or sidestream tobacco product smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

Tobacco product means: (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoke, heated, chewed, absorbed, dissolved, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff; and (2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah. Notwithstanding any provision of clauses (1) and (2) in this definition to the contrary, tobacco product includes any component, part, or accessory of a tobacco product, whether or not sold separately; tobacco product does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes whether such product is marketed and sold solely for such an approved purpose.

Vending machine means any mechanical, electrical, or electronic self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

SECTION 4. License Required.

It shall be unlawful to sell or to possess with the intention of selling tobacco products within the City without having first obtained a tobacco dealer's license pursuant to this article. Such license shall be in addition to any other license required by state and/or federal law. A tobacco dealer's license is valid for one person at one location and may not be transferred from one person to another or from one location to another. Failure to obtain and maintain a valid license shall result in a fine of ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) for each violation. The fee for the tobacco dealer's license shall be ~~Seventy-Five Dollars (\$75.00)~~ Two Hundred Fifty Dollars (\$250.00) per year. All licenses granted under the provisions of this article shall be displayed in a conspicuous place within the business so licensed.

SECTION 5. License Eligibility.

Licenses shall only be granted to authorize the sale of tobacco products within the City at a fixed location. For example, the sale of tobacco products by persons on foot or from vehicles is prohibited.

SECTION 6. License application; term.

Application for a license shall be submitted to the board of licensees together with an application fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Fifty Dollars (\$250.00). A tobacco dealer's license shall be effective through the thirty-first (31st) day of December of the calendar year for which it is issued. No license shall be granted without proof that the applicant has obtained all necessary state licenses for the sale of tobacco products.

SECTION 7. Requirements and ~~prohibitions~~ restrictions applicable to licensees.

(a) No licensee, or employee or agent of such licensee, shall sell or possess with the intention of selling a tobacco product to another person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product.

(b) *Display of price.* The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to clearly indicate the price of the product.

(c) *Packaging and labeling.* No licensee, or employee or agent of such licensee, shall sell any tobacco product unless such product: (1) is sold in the original manufacturer's packaging intended for sale to consumers; and (2) conforms to all applicable federal labeling requirements.

~~(d) *Prohibition of tobacco coupons and discounts.* No licensee, or employee or agent of such licensee, shall:~~

1. ~~Accept or redeem, or offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product to a consumer without charge or for less than the full retail price;~~

2. ~~Sell any tobacco product to a consumer through a multiple-package discount (e.g., "buy two get one free") or otherwise provide any tobacco product to a~~

consumer for less than the full retail price in exchange for the purchase of any other tobacco product;

3. Provide any free or discounted item to a consumer in exchange for the purchase of any tobacco product.

(e)(d) *Sale of flavored tobacco products ~~prohibited~~ restricted.* No licensee, or employee or agent of such licensee, shall sell or possess with the intention of selling any flavored tobacco product to a ~~consumer person under eighteen (18) years of age.~~ A non-cigarette tobacco product is presumed to be a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees has: (1) made a public statement or claim that the non-cigarette tobacco product has or produces a characterizing flavor, including, but not limited to, text and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate information about the flavor, taste, or aroma of a non-cigarette tobacco product; or (2) taken action directed to consumers that would be reasonably expected to result in consumers believing that the non-cigarette tobacco product imparts a characterizing flavor. Each licensee shall maintain on the premises the original labeling and packaging provided by the manufacturer for all tobacco products that are sold or offered for sale by the licensee separately from the original packaging designed for retail sale to the consumer. The original labeling and packaging from which the contents are sold separately shall be maintained during such time as the contents of the package are offered for sale, and may be disposed of upon the sale of the entire contents of such package. Any flavored tobacco products must be maintained for sale behind the sales counter in an area that is not accessible to the general public and cannot be obtained without the assistance from the licensee, employee or agent of licensee.

This subsection (e)(d) shall not apply to the following businesses:

1. A smoking bar as defined in Section 23-20.10-2(15) of the Rhode Island General Laws.
2. A retail store as defined in Section 23-20.10-2(11) of the Rhode Island General Laws.
3. An electronic smoking device establishment.

SECTION 8. Suspension or revocation of license – fines and costs.

The Woonsocket Police Department shall enforce the provisions of this article. All licensees shall be subject to a compliance check at least two (2) times a year; violators shall be checked more frequently until two (2) consecutive compliance checks are completed without violation. If an alleged violation occurs, the Woonsocket Police Department shall issue a citation that will require the licensee to appear for a show cause hearing before the board of licenses. If, after a hearing, the board finds that a violation has occurred, the board shall impose a civil fine of ~~Two Hundred Fifty Dollars (\$250.00) for the first offense; Five Hundred Dollars (\$500.00) for the second offense; and Seven Hundred and Fifty Dollars (\$750.00) of Five Hundred Dollars (\$500.00) for the first offense, and additionally may impose suspension or revocation of license; One Thousand Dollars (\$1,000.00) for the second offense and additionally may impose suspension or revocation of license; and One Thousand Two Hundred Fifty Dollars (\$1,250.00) for any subsequent offense(s) and additionally may impose suspension or revocation of license.~~ Additionally, ~~the board may suspend or revoke the license.~~ If a licensee maintains its license for Thirty-Six (36) consecutive months without a violation, any new violation shall be treated as a first offense. It is the intent of this legislation that all fines collected by the City hereunder shall be deposited into a Restricted Receipt Account used by the board of licensees and to be utilized by the Woonsocket Police Department for the purpose of conducting tobacco product compliance checks and for enforcement of this ordinance.

SECTION 9. Use of premises during license suspension.

During the period of any suspension of a tobacco dealer's license, the licensee shall remove all tobacco products from the retail display area of the location and secure them in a locked area for the duration of the suspension. If, at any time during the suspension period, the licensee is found to be selling, distributing, or delivering any tobacco products, the license shall be revoked.

SECTION 10. Vending machines.

Businesses which have vending machines shall be subject to the same fines and penalties as described in Section 6 of this article. In the event that a tobacco dealer's license is suspended or revoked, then the vending machine shall be removed from the licensed location for the period of suspension or revocation.

SECTION 11. Severability.

If any provision of this article or application thereof to any person or circumstances, is held unconstitutional, illegal, or otherwise invalid, the remaining provisions of this article and the application of such provisions to other persons or circumstances, other than those to which it is held invalid, shall not be affected thereby.

SECTION 12. This Ordinance shall take effect on July 1, 2017 following its passage by the City Council as provided in Chapter III, Section 9 of the Woonsocket Home Rule Charter and all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

Daniel M. Gendron
City Council President