

ORDINANCE REGULATING THE MANNER OF SALE OF TOBACCO PRODUCTS (CHAPTER 41)

Section 1. Title.

This ordinance shall be known as the Regulation to Protect Children from Illegal Tobacco Sales Ordinance.

Section 2. Findings and Purposes.

The Freeport Town Council does hereby find that:

- (a) Substantial scientific evidence exists that the use of tobacco products causes cancer, heart disease, and various other medical diseases. The Surgeon General of the U.S. has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the U.S.;
- (b) The National Centers for Disease Control have found that at least four hundred thirty-four thousand (434,000) Americans die each year from tobacco-caused diseases. The Surgeon General of the U.S. and the U.S. Department of Health and Human Services have found that a majority of those Americans die of tobacco caused diseases became addicted to nicotine in tobacco products as adolescents before the age of legal consent.
- (c) The National Institute on Drug Abuse has concluded that the nicotine in tobacco products is a powerful addictive drug and identify nicotine addiction as the most widespread example of drug dependence in the U.S.;
- (d) The Surgeon General of the U.S. has found that nicotine in tobacco products is as addictive as cocaine and heroin; and
- (e) The National Institute on Drug Abuse has found that tobacco use by adolescents precedes and is predictive of adolescent illicit drug use.

Accordingly, the Freeport Town Council finds and declares it in the public interest to prohibit self-service sales, self-service displays, racks and shelves of tobacco products except in those premises to which access by minors is not allowed.

The Freeport Town Council further finds it is within its basic police power to implement and enforce the provisions of this ordinance.

Section 3. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

1. “Business” means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered in the Town of Freeport.
2. “Exempt Business” means any business except tobacco specialty stores that does not allow anyone under eighteen years of age to enter unless accompanied by an adult. These establishments will be exempt from the ordinance as written.
3. “Person” shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
4. “Self-service merchandising” means open display of tobacco products and point-of-sale tobacco products that the public has access to without the intervention of an employee.
5. “Tobacco product” means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing inhalation or other manner of ingestion.
6. “Tobacco retailer” shall mean any person or governmental entity that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use in the Town of Freeport.
7. “Vendor assisted” means any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.
8. “Vending machine” means any automated, self-service device which, upon insertion of money, token or other form of payment, dispenses cigarettes or any other tobacco product.
9. “Tobacco specialty store” shall mean a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.

Section 4. Regulation of Manner of Sale of Tobacco Products.

- A. It shall be unlawful for any person, business, or tobacco retailer, except tobacco specialty stores which do not allow persons under the age of eighteen (18) to enter the premises, to sell, permit to be sold, offer for sale or display for sale any tobacco products by means of self-service merchandising.

Section 5. Enforcement.

- A. Enforcement of this ordinance shall be the responsibility of the Chief of Police or his or her designee.

Section 6. Violations and Penalties.

- A. It shall be unlawful for any person who owns, managers, operates or otherwise controls the use of any premises subject to this ordinance to fail to comply with any of its provisions.
- B. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance shall eliminate the self-service merchandising of tobacco products except for tobacco specialty stores which do not allow persons under the age of eighteen (18) to enter the premises.
- C. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance who violates any provision of this ordinance shall be deemed guilty of an infraction, punishable by:
 - 1) First violation, a warning issued by the Freeport Police Department.
 - 2) Second violation within one year, a fine, not exceeding one hundred dollars (\$100.00), payable to the Town of Freeport.
 - 3) Third violation within one year, a fine, not exceeding two hundred dollars (\$200.00), payable to the Town of Freeport.
 - 4) For a fourth or more violation within one year, a fine, not exceeding one thousand dollars (\$1000.00), payable to the Town of Freeport.

Section 7. Other Applicable Laws.

This article shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws.