

**TOBACCO SALES**

**Sections:**

- 5.08.010 Definitions.**
- 5.08.020 Prohibited sales or delivery.**
- 5.08.030 Posted notice required- Location of vending machines.**
- 5.08.040 Purchase by minors prohibited.**
- 5.08.050 Possession or use by minors prohibited.**

**5.08.010 Definitions.**

As used in this chapter:

“Tobacco products” means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

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

“Retailer” means a business of any kind at a specific location that sells tobacco products to a user or consumer.

"Self-service display" means any display of nicotine products that is located in an area where customers are permitted and where the nicotine products are readily accessible to a customer without the assistance of a salesperson;

"Electronic cigarette" means any device that can be used to deliver aerosolized or vaporized nicotine or synthetic nicotine material to the person using the device and includes any component, part and accessory of the device and any vapor material intended to be aerosolized or vaporized during the use of the device.

"Electronic cigarette"

includes, without limitation, any electronic cigar, electronic cigarillo, electronic pipe, electronic hooka, vapor pen and any similar product or device. "Electronic cigarette" does not include a battery or battery charger if sold separately from the electronic cigarette and does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act;

"Nicotine products" means tobacco products and electronic cigarettes;

"Vapor material" means any liquid solution or other material containing nicotine or synthetic nicotine that is depleted as an electronic cigarette is used. "Vapor material" includes liquid solution or other material containing nicotine or synthetic nicotine that is sold with or inside an electronic cigarette.

(Ord. 05.08.010 1998; Ord. 91-21-121 § 1 (A), 1991 prior code § 12-212 (part) Amended 01-12-2023, in part)

**Section 5.08.020 Prohibited sales or delivery.**

A. No individual shall sell, offer for sale, give away or deliver tobacco products to any person under the age of twenty-one (21) years.

B. No retailer shall sell, permit the sale, offer for sale, give away or deliver tobacco products to any person under the age of twenty-one (21) years.

C. Any person violating subsection A or B of this section is guilty of a misdemeanor punishable by a fine of not more than: One hundred dollars (\$100.00) for a first violation committed within a twenty-four (24) month period; (ii) Two hundred fifty dollars (\$250.00)

for a second violation within a twenty-four (24) month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. In addition to penalties under paragraph (B) of this section, any person violating subsection (A) of this section for a third or subsequent time within a two (2) year period may be subject to an injunction to prohibit the sale of tobacco in the establishment where the violation occurred for a period not more than one hundred eighty (180) days.

D. It is an affirmative defense to a prosecution under subsection A of this section that, in the case of a sale, the person who sold the tobacco was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the tobacco product as being over twenty-one (21) years of age.

**Section 5.08.030 Posted notice required- Location of vending machines.**

A. Any person who sells tobacco products shall post signs informing the public of the age restrictions provided by this chapter at or near every display of tobacco products and on or upon every vending machine which offers tobacco products for sale. Each sign shall be plainly visible and shall contain a statement communicating that the sale of tobacco products to persons under twenty-one (21) years of age is prohibited by law.

B. No person shall sell or offer tobacco products through a vending machine unless the vending machine is located in:

1. Businesses, factories, offices or other places not open to the general public;

2. Places to which persons under the age of twenty-one (21) years of age are not permitted access; or

3. Business premises where alcoholic or malt beverages are sold or dispensed and where entry by persons under twenty-one (21) years of age is prohibited.

C. Any person violating subsection (A) or (B) of this section is guilty of a misdemeanor punishable by a fine of not more than: (i) One hundred dollars (\$100.00) for a first violation committed within a twenty-four (24) month period; (ii) Two hundred fifty dollars (\$250.00) for a second violation within a twenty-four (24) month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. In addition to penalties under paragraph (B) of this section, any person violating subsection (A) of this section for a third or subsequent time within a two (2) year period may be subject to an injunction to prohibit the sale of tobacco in the establishment where the violation occurred for a period not more than one hundred eighty (180) days. Each day of violation shall be deemed a separate offense. (Ord. 05-08-030 1998; Ord. 91-12-121 § 1 (E) 1991: prior code § 12-121- (part); Amended 01-12-2023, in part)

**5.08.040 Purchase by minors prohibited.**

A. No person under the age of twenty-one (21) years shall purchase tobacco products, or misrepresent his identity or age, or use any false or

altered identification for the purpose of purchasing tobacco products.

05-08-040

B. Any person violating subsection (A) of this section is guilty of a misdemeanor punishable by a fine of not more than: (i) One hundred (\$100.00) dollars for a first violation committed within a twenty-four (24) month period; (ii) Two hundred fifty dollars (\$250.00) for a second violation within a twenty-four (24) month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. (Ord. 05.08.040 1998; Ord. 91-12-121 § 1(D), 1991: prior code § 12-121 (part) Amended 01-12-2023 in part)

**Section 5.08.050 Possession or use by minors prohibited.**

A. It is unlawful for any person under the age of twenty-one (21) years to possess or use any tobacco products.

B. Any person violating subsection (A) of this section is guilty of a misdemeanor punishable by a fine of not more than (i) One hundred (\$100.00) dollars for a first violation committed within a twenty-four (24) month period; (ii) Two hundred fifty dollars (\$250.00) for a second violation within a twenty-four (24) month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. (Ord.05.08.050 1998; Ord. 91-12-121 § 1 (E), 1991: prior code § 12-121 (part) Amended 01-12-2023, in part)

1<sup>st</sup> Reading: November 10, 2022

2<sup>nd</sup> Reading: December 8, 2022

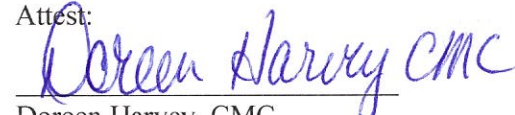
3<sup>rd</sup> Reading: January 12, 2023

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF ENCAMPMENT, CARBON COUNTY, WYOMING** that section 5.08 of the Town of Encampment be amended as presented.

PASSED, ADOPTED and APPROVED this 12<sup>th</sup> Day of January, 2023.

  
Shannon Fagan, Mayor

Attest:

  
Doreen Harvey, CMC  
Clerk Treasurer