

Chapter 5.08

TOBACCO SALES

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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 device 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. (Ord. 05.08.010 1998; Ord. 91-21-121 § 1 (A), 1991 prior code § 12-212 (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 eighteen (18) 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 eighteen (18) 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: (i) Fifty dollars (\$50.00) 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 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 eighteen (18) 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 eighteen (18) 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 eighteen (18) 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 eighteen (18) 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) Fifty dollars (\$50.00) 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 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))

5.08.040 Purchase by minors prohibited.

A. No person under the age of eighteen (18) 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.

B. Any person violating subsection (A) of this section is guilty of a misdemeanor punishable by a fine of not more than: (i) Fifty dollars (\$50.00) 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 month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. Upon conviction for violation of subsection (A) of this section, the court may allow the defendant to perform community service or attend a tobacco cessation program and be granted credit against his fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed or each hour of tobacco cessation program attended. (Ord. 05.08.040 1998; Ord. 91-12-121 § 1(D), 1991: prior code § 12-121 (part))

Section 5.08.050 Possession or use by minors prohibited.

A. It is unlawful for any person under the age of eighteen (18) 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) Fifty dollars (\$50.00) 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 month period; (iii) Seven hundred fifty dollars (\$750.00) for a third subsequent violation committed within a twenty-four (24) month period. Upon a conviction for violation of subsection A of this section, the court may allow the defendant to perform community service or attend a tobacco cessation program and be granted credit against his fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed or each hour of tobacco cessation program attended. (Ord.05.08.050 1998; Ord. 91-12-121 § 1 (E), 1991: prior code § 12-121 (part))