

ORDINANCE

No. _____

1st Reading _____

Date to Mayor _____

Public Hearing _____

Date Returned _____

2nd Reading & Passage _____

Date Resubmitted to Council _____

Withdrawn _____ Lost _____

Approved as to Form and Legality

Factual content certified by

WALTER DENSON, ESQ., ACTING DIRECTOR OF LAW

JAMES A. BROWNLEE, DIRECTOR OF HEALTH & HUMAN SERVICES

Councilman /woman _____ presents the following Ordinance:

ORDINANCE PROHIBITING OF SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER THE AGE OF 21

WHEREAS, the Trenton Division of Health and Human Services("Division of Health") was established pursuant to N.J.S.A. 26:3-1; and

WHEREAS, pursuant to N.J.S.A. 26:3-1, the Division of Health may make amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Division of Health has concluded that it is appropriate to prohibit the sale of tobacco and nicotine delivery products within Trenton to persons under the age of twenty-one (21); and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Trenton as follows:

Section 1. Retail Sale of Tobacco Products

- A. No Person shall sell, distribute or give Tobacco or Nicotine Delivery Products in the City of Trenton unless the owner or an employee of the establishment controls the sale of such products. A Person may only sell, furnish or give Tobacco or Nicotine Delivery Products in a direct, face-to-face exchange between the Tobacco retailer and the consumer. Self-service displays and Vending Machines of Tobacco or Nicotine Delivery Products shall be prohibited.
- B. No person shall sell, distribute, or give Tobacco or Nicotine Delivery Products to any person under the age of 21 years.

Section 2. Definitions

DIVISION OF HEALTH shall mean the City of Trenton Division of Health.

HEALTH OFFICER shall mean the Director of the Division of Health and/or his or her authorized representative.

ORDINANCE

Section 2. Definitions

NICOTINE DELIVERY PRODUCT shall mean any product that is designed to deliver nicotine, nicotine or non-nicotine vapor, or any other substances including, but not limited to, what are commonly known as "e-cigarettes" or other types of electronic smoking devices, or any cartridge or other component of such device, or related products including but not limited to any substances used in such devices, such as liquids, powders, gels or other forms of Tobacco, nicotine or other substances but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

PERSON shall mean an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

TOBACCO shall mean any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use including but not limited to cigars, chewing tobacco, pipe tobacco, snuff, and cigarettes in any form.

TOBACCO RETAILER shall mean any Person, or entity that operates a store, stand, booth, concession, or place at which sales of Tobacco or Nicotine Delivery Products are made to purchasers for consumption or use. The term shall also mean any Person or entity that owns, operates or uses a Tobacco Vending Machine.

TOBACCO VENDING MACHINE shall mean any automated, self-service device which, upon insertion of money, tokens, or other forms of payment, dispenses Nicotine Delivery Products, cigarettes, or other Tobacco products.

Section 3. Enforcement

- A. The enforcement authority for this ordinance shall be the City of Trenton Health Officer or his/her designee, and/or the Trenton Police Department.
- B. The Health Officer may, after giving proper identification, inspect any matter, thing, premise, place, Person, record, vehicle, incident, or event as necessary to execute his or her official duties in a manner prescribed by law.
- C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer in his enforcement of this ordinance, and the Health Officer may request the assistance of the Trenton Police Department or other police agency or peace officer when necessary to execute his or her official duties in a manner prescribed by law.
- D. Citizens may bring complaints against violators of this ordinance.

ORDINANCE

Section 4. Penalties

- A. A person who violates the provisions of this ordinance, including but not limited to any employee of a retail dealer licensee under P.L. 1948, c.65 (C.54:40A-1 et seq.), who actually sells, distributes or gives or otherwise provides Tobacco or Nicotine Delivery Product to a person under 21 years of age, shall be liable to a civil penalty of not less than \$250 for the first violation, not less than \$500 for the second violation, and not less than \$1,000 for the third and each subsequent violation. Complaint shall be made in the municipal court of the City of Trenton or before such other judicial officer having authority under the laws of the State of New Jersey. Fees collected as a result of penalties allowed under this section shall be designated for use by the Division of Health.
- B. Each sale, distribution, or giving of Tobacco and or Nicotine Delivery Product to any person under the age of 21 shall constitute a separate violation.
- C. In addition to the penalties set forth in subsection 4.A above, the City of Trenton Division of Health may suspend the retail food establishment license of any person convicted of violation of this ordinance, for a period of not more than 3 days, pursuant to the authority of the Division of Health to license and regulate food establishments as provided by N.J.S.A. 26:3-31(c).

Section 5. Repealer

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

Section 6. Invalidity

If any section or provision of this Ordinance be adjudged invalid or unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the same shall not affect the validity of the ordinance as a whole or any other section or provision hereof.

Section 7. Effective Date

This Ordinance shall take effect 20 days following its passage and publication, or as otherwise provided by law

	INTRODUCTION				ADOPTION					INTRODUCTION				ADOPTION					INTRODUCTION				ADOPTION			
	AYE	NAY	NV	AB	AYE	NAY	NV	AB		AYE	NAY	NV	AB	AYE	NAY	NV	AB		AYE	NAY	NV	AB	AYE	NAY	NV	AB
BETHEA									HOLLY WARD									CHESTER								
CALDWELL WILSON									MUSCHAL																	
HARRISON									REYNOLDS JACKSON																	
<small>NV - NO VOTE</small>				<small>AB - ABSENT</small>																						

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ on _____

Adopted on second reading after the public hearing on _____

Mayor

APPROVED
REJECTED

Reconsidered by Council - Override Vote

AYE
NAY

President of Council

City Clerk