

CHAPTER 59

TOBACCO

5900. Scope.

The provisions of this chapter shall apply to the unincorporated area of Jackson County.

5901. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

- (1) "Alternative Nicotine Product" means any non-combustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, or ingested by any other means. Alternative Nicotine Product does not include any Vapor Product, Tobacco Product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
- (2) "Blunt Wrap" means an individual tobacco wrapper, by whatever name known, that is designed to be sold to the public and is made wholly or in part from tobacco, including reconstituted tobacco, whether in the form of a tobacco leaf, sheet, or tube.
- (3) "Distribute" means a conveyance to the public by sale, barter, gift, or sample.
- (4) "Person" means an individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, independent or wholesale retailer, or any agency, board, department, or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties.
- (5) "Proof of Age" means a driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.
- (6) "Rolling Papers" means paper designed, manufactured, marketed, or sold for use primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco into a smokable cigarette.
- (7) "Sample" means a product distributed to members of the general public at no cost for product promotional purposes.
- (8) "Tobacco Products" means any substance containing tobacco leaf, including, but not limited to, Blunt Wraps, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

(9) "Under Direct Supervision" means in the plain vision of an employee or owner of a retail business during regular business hours.

(10) "Vapor Product" means any non-combustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other form that may or may not contain nicotine. Vapor Product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor Product does not include any Alternative Nicotine Product or Tobacco Product.

(11) "Vending Machine" means any mechanical electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses products.

(Ord. 4922; Eff. 11-07-16)

5902. Required Signage.

The owner of an establishment at which Tobacco Products are sold at retail or through Vending Machines shall cause to be prominently displayed in a conspicuous place at every display from which Tobacco Products are sold and on every Vending Machine where Tobacco Products are purchased a sign that shall:

- (a) Contain in red lettering at least one-half inch high on a white background the following: "It is a violation of law for cigarettes, other tobacco products, alternative nicotine products or vapor products," and the words "to be sold to any person under 21" in bold, black font; and,
- (b) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle.

Further, all such Vending Machines shall be Under Direct Supervision of the owner of the establishment or an employee of the owner unless such Vending Machine is located in a place where Persons under the age of 21 are denied access.

(Ord. 4922; Eff. 11-07-16)

5903. Control of Tobacco Products.

It shall be unlawful for any business proprietor, manager, or other Person in charge or control of a retail business of any kind to stock or display any Tobacco Product in any way which allows a customer to access such Tobacco Product without first securing the physical assistance of an employee, except that adult customers may be allowed to enter

walk-in humidors for the purpose of selecting for purchase cigars displayed therein. (Ord. 4922; Eff. 11-07-16)

5904. Proof of Age Requirement.

A Person selling Tobacco Products or Rolling Papers or distributing Tobacco Product Samples shall require Proof of Age from a prospective purchaser or recipient, if an ordinary Person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of 27. (Ord. 4922; Eff. 11-07-16)

5904.1 Reasonable reliance on Proof of Age shall be a defense to any action for a violation of section 5905. (Ord. 4922; Eff. 11-07-16)

5905. Sale and Distribution.

It shall be unlawful for any Person to sell or distribute any Tobacco Products, Rolling Papers, Alternative Nicotine Products, or Vapor Products to any Person under the age of 21, or allow such sale or distribution. This section shall not apply to the distribution by family members on property that is not open to the public. (Ord. 4922; Eff. 11-07-16)

5905.1 It shall be unlawful for any employee or owner of an establishment where any Vending Machine is located to permit or allow any Person under the age of 21 to purchase or otherwise obtain any Tobacco Products, Rolling Papers, Alternative Nicotine Products, or Vapor Products from such Vending Machine. (Ord. 4922; Eff. 11-07-16)

5905.2 It shall be unlawful for any Person to distribute Tobacco Products or Rolling Paper Samples in or on any public street, sidewalk, school ground, or park, or on private property open to the public, without the property owner's permission. (Ord. 4922; Eff. 11-07-16)

5905.3 If a sale is made by an employee of the owner of an establishment in violation of this section, the employee, the manager or other Person in charge or control of the establishment at the time of the sale, and the owner of the establishment shall be guilty of an offense. If a Vending Machine is operated or located in violation of this section, the manager or other Person in charge or control of the establishment and the owner of the establishment shall be guilty of an offense. If a Sample is distributed by an employee of a company conducting the distribution, such employee and the owner of the company shall be guilty of an offense. (Ord. 4922; Eff. 11-07-16)

5906. Possession/Purchase.

It shall be unlawful for any Person under the age of 18 to knowingly possess or use any Tobacco Products, Rolling Papers, Alternative Nicotine Products, or Vapor Products, and any Tobacco Products, Rolling Papers, Alternative Nicotine Product, or Vapor Product knowingly possessed by Person under the age of 18 are hereby declared to be contraband and may be seized by a law enforcement officer and destroyed in order to protect the

public health. (Ord. 4922; Eff. 11-07-16)

5906.1 It shall be unlawful for any Person under the age of [18] 21 to knowingly obtain or attempt to obtain any Tobacco Products, Rolling Papers, Alternative Nicotine Product, or Vapor Product by misrepresentation of age or by any other method. (Ord. 4922; Eff. 11-07-16)

5906.2 It shall be prima facie evidence for purposes of this chapter that the substance within a package or container is a Tobacco Product, Rolling Papers, an Alternative Nicotine Product, or a Vapor Product if the product package or container has affixed to it a manufacturer's label which identifies it as such. (Ord. 4922; Eff. 11-07-16)

5907. Penalty.

Any Person who violates any provision of this chapter, except a provision of section 5906., shall, for each offense, be fined not less than \$100.00 and not more than \$1,000.00 or be punished by imprisonment not to exceed six months, or be punished by both fine and imprisonment. Each violation of, or failure, refusal, or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense. (Ord. 4922; Eff. 11-07-16)

5907.1 Any person who violates any provision of section 5906. of this chapter shall, for each offense, be fined not more than \$100.00. (Ord. 4922; Eff. 11-07-16)