

CITY OF GLYNDON

ORDINANCE NO. 144

AN ORDINANCE RELATING TO THE CITY OF GLYNDON ADMINISTERING REVOCATION OF CIGARETTE LICENSES FOR SELLING TO MINORS AND REGULATING CERTAIN DISPLAYS OF TOBACCO PRODUCTS AND REPEALING ORDINANCE NO. 132.

WHEREAS, the use of tobacco products by minors has been increasing both nationally and locally; and

WHEREAS, other cities have determined that a better deterrent for the sale of cigarettes to minors is suspension of a license for repeat violations.

NOW, THEREFORE, be it ordained by the City Council of the City of Glyndon as follows:

SECTION 1. CIGARETTES; PROHIBITED SALES:

A. Definitions:

INDIVIDUALLY-PACKED TOBACCO PRODUCTS - Any package containing only one individually wrapped tobacco product. This definition includes, but is not limited to, single packs of cigarettes, single bags of tobacco for rolling, and individual cans of tobacco for chewing or sniffing.

PROBATIONARY PERIOD - A period of 12 months for a violation which is not within any period of probation already established by a violation of any of this section, which 12 months shall be defined as commencing on the date of the said first offense and shall extend for 12 consecutive months thereafter. If any subsequent offenses occur within the said 12 month period, the probationary period for any such subsequent offense shall extend for either the same 12 consecutive months from the date of the first offense, as described above, or for a period of 6 months from the date of the subsequent offense, whichever period would expire later. For purposes of this section, an offense is deemed to have occurred when the offense is committed, and not the date of judgment or conviction.

SELF-SERVICE MERCHANDISING - Any open display of tobacco products to which the public has access without the intervention of an employee of the retail establishment.

TOBACCO PRODUCTS - Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

VENDING MACHINE - Any mechanical, electric, or electronic device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

- B. Prohibited Sales:** No person shall sell, offer for sale, give away or deliver any tobacco product to any person under the age of eighteen (18) years. No person shall sell or dispense any tobacco product through the use of a vending machine except as follows:

A vending machine may be used to dispense tobacco products in an area within a factory, business, office or other place not open to the general public or to which persons under eighteen (18) years of age are not generally permitted access.

2. A vending machine may be used to dispense tobacco products on the premises of a licensed on-sale or off-sale intoxicating liquor establishment, including club licenses. Provided, however, that if an on-sale licensed premises is also a restaurant or bar as defined by Glyndon City Ordinance No. 128, that a vending machine located in a portion of the premises in which minors are allowed must be operable only by activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of tokens provided by an employee of the establishment before each sale.
- C. A licensee shall not offer for sale or otherwise dispense any individually packaged tobacco products by self-service merchandising.
- D. Once a year, compliance checks shall be conducted by the City of Glyndon to ensure that business are complying with this Ordinance. Any minor participating in these compliance checks must have parental permission.

SECTION 2. ADMINISTRATIVE REMEDIES

- A. Administrative fine, suspension, or revocation: Any violation of the City's regulations relating to the issuance of tobacco products' license or of any conditions/restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, license suspension, and/or license revocation.

If the violation relates to the sale of tobacco products to minors by a licensee or licensee's employee, the following administrative suspensions, or revocations shall be imposed.

1. The first such violation shall subject licensee to a written warning and a \$50 administrative fine.
 2. The second violation within the probationary period shall subject licensee to a three day suspension of the license and a \$500 administrative fine.
 3. The third violation within the probationary period shall subject licensee to a ten day suspension of the license and a \$750 administrative fine.
 4. Subsequent violations within the probationary period shall subject licensee to a 30 day license suspension and a \$1000 dollar administrative fine.
 5. If any sale of tobacco products occurs on licensee's premises during a period of suspension, the license shall be suspended for the fully probationary period.
 6. For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only on offense during any 24 hour day.
- B. Administrative hearing/waiver: Upon receipt of information indicating that a license violation has occurred, the City or a designee shall send a license violation notice to licensee by certified mail. The license violation notice shall indicate the nature of the violation and whether such violation will result in an administrative fine, license suspension, or license revocation.

If the proposed disposition includes a license suspension, revocation, or fine, the notice shall also indicate that licensee has the option of requesting a hearing before the City Council prior to the license suspension, revocation, or imposition of fine, or waiving such hearing and accepting the disposition described in the license violation notice. The licensee shall file a written request for a hearing within ten days of the date specified in the license violation notice, or licensee shall be deemed to have waived its right to a hearing. Upon receipt of a hearing request, the City shall schedule a hearing before the City Council at the earliest opportunity and shall send a hearing notice to licensee by certified mail.

SECTION 3. CRIMINAL PENALTIES

- A. **Penalty:** The penalty for violation of any of the provisions of Section 2A, 1-5 shall be a misdemeanor.
- B. **Clerk penalties:** Any employee of a licensee who willfully or negligently violates the restrictions attached to a tobacco products license shall be guilty of a misdemeanor.
- C. **Immunity Clause:** A person under eighteen (18) years of age who purchases or attempts to purchase tobacco related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes which have been approved by the City Manager or his designee shall not be subject to a criminal penalty.

SECTION 4. EFFECTIVE DATE:


This ordinance shall take effect on the date of publication.

SECTION 5. REPEAL:

Upon effective date of this Ordinance, Glyndon City Ordinance No 132 is hereby repealed.

PASSED by the City Council of the City of Glyndon this 13 day of May, 1998.

APPROVED:



Mayor Lori DeJong



Dennis Johnson, Clerk/Treasurer