

BILL NO. 16-173

AN ORDINANCE AMENDING CHAPTER 17, CODE OF ORDINANCES BY REPEALING SECTION 17-4 IN ITS ENTIRETY AND ENACTING IN LIEU THEREOF A SECTION OF LIKE NUMBER AND SUBJECT MATTER ENTITLED "SALE OR DISTRIBUTION OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO THOSE UNDER THE AGE OF TWENTY-ONE; POSSESSION BY THOSE UNDER THE AGE OF EIGHTEEN" TO THE CODE OF ORDINANCES FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, in 2014 a Health Needs Assessment Survey was conducted in Lee's Summit, Missouri in conjunction with the Jackson County Health Department; and,

WHEREAS, the results of the survey were presented to the Health Education Advisory Board in April of 2015. The survey findings indicated that members of Lee's Summit community felt tobacco use was an important issue affecting the health and welfare of the community; and,

WHEREAS, the Health Education Advisory Board recommended the City support the Tobacco 21 initiative that limits the sale and purchase of tobacco products, alternative nicotine products and vapor products to those twenty-one and older; and,

WHEREAS, the City of Lee's Summit recognizes that the use of tobacco products has devastating health consequences and that young people are particularly susceptible to the addictive properties of tobacco products and are particularly likely to become lifelong users.

WHEREAS, the City of Lee's Summit will implement an outreach program to educate the community on the health consequences of tobacco products on young people and as part of the outreach create a web page located at www.cityofls.net/tobacco21 to provide business owners with information regarding the sale of tobacco products, alternative nicotine products and vapor products to persons under the age of twenty-one and provide signs to post at businesses reflecting the proper age at which said products can be sold.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 17 of the Code of Ordinances for the City of Lee's Summit shall be amended by repealing Section 17-4 in its entirety and enacting in lieu thereof a new section of like number and subject matter entitled "Sale or distribution of tobacco products, alternative nicotine products or vapor products to those under the age of twenty-one; possession by those under the age of eighteen," to the Code of Ordinances of the City of Lee's Summit, Missouri to read as follows:

Sec. 17-4. – Sale or distribution of tobacco products, alternative nicotine products or vapor products to those under the age of twenty-one; possession by those under the age of eighteen.

A. Definitions. As used in this section the following terms mean:

- (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

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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) Distribute or Distribution means to furnish, give, provide, or to attempt to do so, whether gratuitously or for any type of compensation.
 - (3) Tobacco product means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products, or vapor products.
 - (4) 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 nicotine in a solution or other form. 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.
- B. It shall be unlawful for any person to sell or distribute any tobacco products, alternative nicotine products or vapor products to persons under the age of twenty-one or allow such sale or distribution.
 - C. It shall be unlawful for any person under the age of twenty-one to purchase any tobacco products, alternative nicotine products or vapor products.
 - D. 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 twenty-one to purchase or otherwise obtain any tobacco products, alternative nicotine products, or vapor products from such vending machine.
 - E. It shall be unlawful for any person under the age of eighteen to knowingly possess or use any tobacco products, alternative nicotine products or vapor products.
 - F. *Misrepresentation of age prohibited.* No person shall misrepresent his or her age to purchase tobacco products, alternative nicotine products or vapor products.
 - G. It shall be prima facie evidence for purposes of this chapter that the substance within a package or container is a tobacco product or electronic smoking device if the product package or container has affixed to it a manufacturer's label which identifies it as such.
 - H. *Duty of retailers to post signs.* Every retail dealer in tobacco products, alternative nicotine products or vapor products shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products or vapor products are sold, and on every tobacco vending machine and cigarette rolling machine two signs. One sign shall state the following: "It is a violation of law for cigarettes, other tobacco products, alternative nicotine products, or vapor products to be sold to any person under the age of 21." The second sign shall include the words "under 21" defaced by a red diagonal diameter of a surrounding red circle.
 - I. *Merchants prohibited from allowing persons under twenty-one years of age the use of cigarette rolling machines.* It shall be unlawful for any place of business containing a

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cigarette rolling machine(s) to allow persons under twenty-one years of age to use said machine(s), unless a person is an employee of the place of business utilizing such a machine, and is using the machine in the course of employment or the person is an employee of the division of liquor control of the Department of Public Safety of the State of Missouri or the Lee's Summit, Missouri Police Department and is utilizing for enforcement purposes.

- J. *Age verification.* A person selling tobacco products, alternative nicotine products or vapor products shall verify by means of government issued photographic identification containing the bearer's date of birth, that no person purchasing tobacco products, alternative nicotine products or vapor products is younger than twenty-one years of age. No such verification is required for any prospective purchaser or recipient who looks older than thirty years old. Reasonable reliance on proof of photographic identification shall be a defense to any action for a violation of this section.
- K. This ordinance does not prohibit a person under the age of twenty-one from handling tobacco products, alternative nicotine products or vapor products in the course of lawful employment.
- L. This ordinance does not apply to a person younger than twenty-one years old who purchases or attempts to purchase tobacco products, alternative nicotine products or vapor products while under the direct supervision of the City police department for enforcement purposes.

SECTION 2. That it is the intention of the City Council, and is it hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

SECTION 3. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. That should any section, sentence or clause of this ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 5. That this ordinance shall take effect on December 1, 2016.

PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2016.

ATTEST:

Mayor Randall L. Rhoads

City Clerk *Denise Chisum*

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APPROVED by the Mayor of said city this ____ day of _____, 2016.

ATTEST:

Mayor *Randall L. Rhoads*

City Clerk *Denise Chisum*

APPROVED AS TO FORM:

Chief Counsel of Public Safety *Beth Murano*