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City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER

No. AN ORDINANCE AMENDING ARTICLE XV OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, ENTITLED: "LICENSES" BY ADDING THERETO THE FOLLOWING SECTIONS.

Approved

Be it ordained by the City of Providence:

SECTION 1. Article XV of Chapter 14 of the Code of Ordinances of the City of Providence is hereby amended by adding thereto the following:

Sec. 14-308. Definitions.

Whenever used in this ordinance, the following terms shall be defined as follows:

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by, consumers as a cigarette described in clause (1) of this definition.

"Characterizing flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice and concepts such as spicy, arctic, ice, cool, warm, hot, mellow, fresh, and breeze; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

"Component part" means any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

"Constituent" means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

"Flavored tobacco product" means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

"Person" means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity.

"Smoke constituent" means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

"Smoking bar" has the meaning as such term is defined in Sec. 23-20.10-2(15) of the Rhode Island general laws.

"Tobacco product" means any product containing tobacco or nicotine, including but not limited to cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products, and electronic cigarette cartridges; provided, however, that such term shall not include: (1) cigarettes, including those cigarettes subject to the Special Rule for Cigarettes relating to characterizing flavors of the federal Family Smoking and Tobacco Prevention Act; and (2) any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs.

It shall be unlawful for any person to sell or offer for sale any flavored tobacco product to a consumer, except in a smoking bar.

Sec. 14-310. Enforcement and penalties.

The Providence police department shall enforce the provisions of this ordinance. If an alleged violation occurs, the Providence police department shall issue a citation that will require the tobacco dealer's license holder to appear for a show cause hearing before the Board of Licenses. If, after a hearing, the Board finds that a violation has occurred, the Board shall impose a civil fine of two hundred fifty dollars (\$250.00) for the first offense, three hundred fifty dollars (\$350.00) for the second offense, and five hundred dollars (\$500.00) for any subsequent offense. Additionally, the Board may suspend or revoke the license. If a holder of a tobacco dealer's license maintains said license for thirty-six (36) consecutive months without a violation, any new violation will be treated as a first offense.

It is the intent of this legislation that all fines collected by the City hereunder shall be used by the Board of Licenses and the Police Department for the purpose of conducting tobacco compliance checks.

SECTION 2. This Ordinance shall take effect December 1, 2011.