

ARTICLE XIII. - TOBACCO DEALER'S LICENSE AND SALES REGULATIONS

Sec. 10-179. - License required.

It shall be unlawful to sell or offer for sale, to give away or deliver or to possess with the intention of selling tobacco products within the Town of West Warwick without having first having obtained a tobacco dealer's license pursuant to this article. Such license shall be in addition to any other license required by state and/or federal law. A tobacco dealer's license is valid for one person at one location and may not be transferred from one person to another or from one location to another. A tobacco dealer's license shall be approved by the town council upon application made to the town clerk. The tobacco dealer's initial license shall be valid until September 1 following the initial issuance and thereafter shall be valid for a period of one year to September 1 of the following year. A fee, to be set from time to time by the town council, shall be paid prior to the issuance of the license. All licenses granted under the provisions of this article shall be displayed in a conspicuous place within the business so licensed.

(Ord. No. [2016-15](#), 2-7-17; Ord. No. [2018-14](#), 5-22-18)

Sec. 10-180. - Failure to obtain license.

- (a) Any person selling tobacco products at the effective date of this article shall within 90 days of the effective date of this article obtain a tobacco dealer's license. Failure to obtain such license within said 90 days shall result in a fine of \$250.00.
- (b) Any person who shall commence the sale of tobacco products subsequent to the effective date of this article without first obtaining a tobacco dealer's license shall be fined \$250.00.

(Ord. No. [2016-15](#), 2-7-17)

Sec. 10-181. - Definitions.

Electronic nicotine delivery system means an electronic device that may be used to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or electronic hookah and any related device and any cartridge or other component of such device.

Flavored tobacco product means any tobacco product, other than a cigarette, that contains a constituent that imparts a characterizing flavor.

Licensee means the person to whom a tobacco dealer's license has been issued and all employees or agents of such licensee.

Non-cigarette tobacco product means a tobacco product that is not a cigarette.

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

Sale means any transfer, exchange, barter, gift, offer for sale or distribution for commercial purpose in any manner or by any means whatsoever.

Self-service means the open display of tobacco products in a manner accessible to the general public without assistance of the licensee or which the public has access to without the intervention of the licensee.

Tobacco product means: (1) any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco and snuff, and (2) any electronic device that delivers nicotine or other substances

to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe or hookah or refills for such devices.

Notwithstanding any provision of clauses (1) and (2) in this definition to the contrary, tobacco product includes any component, part or accessory of a tobacco product, whether or not sold separately. Tobacco product does not include any product that has been approved by the United States Food and Drug Administration for the sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold separately for such an

Vending machine means any mechanical, electric or electronic self-service device which upon insertion of money, tokens or any other form of payment dispenses a tobacco product.

(Ord. No. [2016-15](#), 2-7-17; Ord. No. [2018-17](#), 6-19-18)

Sec. 10-182. - Purchase, sale or delivery of tobacco products to persons under the age of 18.

No person under 18 years of age shall purchase, any tobacco in the form of cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as "blunts" unflavored "blunts", flavored and unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos, and Tiparillos, pipe tobacco, chewing tobacco, electronic nicotine delivery systems or snuff.

(Ord. No. [2016-15](#), 2-7-17)

Sec. 10-183. - Requirements and prohibitions applicable to licensees.

- (a) All tobacco products as hereinabove defined, shall be placed and maintained behind all counters available to the public.
- (b) Licensees are prohibited from selling, distributing or delivering any tobacco product to any individual who is under the age of 18, whether said tobacco product is sold, distributed or delivered in person or via vending machine.
- (c) No licensee shall sell or possess with intention of selling a tobacco product to another person who appears to be under the age of 27 without first examining the identification of the recipient to confirm that the recipient is not under the age of 18.
- (d) The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to clearly indicate the price of the product.
- (e) No licensee shall sell any tobacco product unless such product (1) is sold in the original manufacturer's packaging intended for sale to consumers, and (2) conforms to all applicable federal labeling requirements.
- (f) No licensee shall sell as a single cigarette sale or as a sale of cigarettes by the individual piece, known as "loosies".
- (g) No licensee shall:
 - (1) Accept or redeem, or offer to accept or redeem any coupon that provides any tobacco product to a person under the age of 18 without charge or for less than the full retail price,
 - (2) Sell any tobacco product to a person under the age of 18 through a multi-package discount (e.g., "buy-two-get-one-free") or otherwise provide any tobacco product a person under the age of 18 for less than the full retail price in exchange for the purchase of any other tobacco product,
 - (3) Provide any free or discounted item to a person under the age of 18 in exchange for the purchase of any tobacco product.
- (h) No licensee shall sell any flavored tobacco product to any person under the age of 18. A non-cigarette tobacco product is presumed to be a flavored tobacco product if a manufacturer or any of

the manufacturer's agents or employees has: (1) made a public statement or claim that the non-cigarette tobacco product has or produces a characterizing flavor, including, but not limited to, text and/or images on the product's labeling or packaging that are used to explicitly or impliedly communicate information about the flavor, taste or aroma of a non-cigarette tobacco product; or (2) taking action directed to consumers that would be reasonably expected to result in consumers believing that the non-cigarette tobacco product imparts a characterizing flavor. Each licensee shall maintain on the premises the original labeling and packaging provided by the manufacturer for all tobacco products that are sold or offered for sale by the licensee separately from any original packaging designed for the retail sale to the consumer. The original labeling and packaging from which the contents are sold separately shall be maintained during such times as the contents of the package are offered for sale, and may be disposed of upon the sale of the entire contents of the package.

This subsection (h) shall not apply to a smoking bar as defined in the G.L. § 23-20.10-2(15).

(Ord. No. [2016-15](#), 2-7-17; Ord. No. [2017-18](#), 7-11-17; Ord. No. [2018-17](#), 6-19-18)

Sec. 10-184. - Signs concerning sales to individuals under age 18.

All licensees shall exhibit a sign in red bold lettering a minimum of three-eighths inches high on a white backboard with the following wording in both English and Spanish:

THE SALE OF CIGARETTES, TOBACCO AND ELECTRONIC NICOTINE DELIVERY SYSTEM PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS AGAINST RHODE ISLAND LAW (G.L. § 11-9-13.8(1)). PHOTO ID FOR PROOF OF AGE IS REQUIRED FOR PURCHASE.

WARNING: SMOKING CIGARETTES CONTRIBUTES TO LUNG DISEASE, CANCER, HEART DISEASE, STROKE AND RESPIRATORY ILLNESS AND DURING PREGNANCY MAY RESULT IN LOW BIRTH WEIGHT AND PREMATURE BIRTH.

The sign shall also include the telephone number at the department of behavioral healthcare, developmental disabilities and hospitals, where violations of the law can be reported.

(Ord. No. [2016-15](#), 2-7-17)

Sec. 10-185. - Enforcement of ordinance; fines and costs.

- (a) The West Warwick Police Department shall enforce this article.
- (b) All licensees shall be subject to a compliance check at least once a year, with violators being checked more frequently until two checks are completed without a violation.
- (c) Any licensee that is sells, distributes a tobacco and/or electronic nicotine delivery system product to (1) an individual under 18 years of age or [(2)] in any form other than an original factory-wrapped package shall be subject to fines as follows:
 - (1) A fine of \$250.00 for the first violation within any 36 month period,
 - (2) A fine of \$500.00 for the second violation within any 36 month period,
 - (3) A fine of \$1,000.00 and a 14 day suspension of the license for the third violation within any 36 month period,
 - (4) A fine of \$1,500.00 and a 90 day suspension of the license for each violation in excess of three.
- (d) Any licensee that sells or distributes "loosies" shall be subject to a fine of \$500.00 for each violation.

(Ord. No. [2016-15](#), 2-7-17)

Sec. 10-186. - Use of premises during license suspension.

During the period of any suspension of a tobacco dealer's license, the licensee shall remove all tobacco products from the shelves and secure them in a locked area for the duration of the suspension. If, at any time during the suspension period, the licensee is found to be selling, distributing or delivering any tobacco products the license shall be revoked.

(Ord. No. [2016-15](#), 2-7-17)

Sec. 10-187. - Vending machines.

- (a) No cigarettes or any other tobacco product the electronic nicotine delivery system products shall be sold from any device of vending machine which is in an area not continuously supervised and in direct line of sight of the licensee in which the device of vending machine is located, nor shall any tobacco product nor electronic nicotine delivery system be sold from any device of vending machine which is in an area supervised by the licensee unless the device of vending machine is equipped with an electronic locking device which will not allow the device of vending machine to dispense of a pack of cigarettes, or any tobacco product, nor any electronic nicotine delivery system product unless it is electronically unlocked from a secured position and accessible to the public and under the supervision of the licensee. "Direct line of sight" means that the vending machine and the purchaser of cigarettes or electronic nicotine delivery system must be visible to the licensee pressing the unlock button while the unlock button is being activated. Provided, a locking device shall not be required in an establishment to sell alcoholic beverages which limits access to persons over the age of 21 years.
- (b) No cigarettes nor any other tobacco product nor electronic nicotine delivery system product shall be sold from any device or vending machine from which non-tobacco products are sold.
- (c) No cigarettes shall be sold in packs which contain less than 20 cigarettes.
- (d) Any licensee who shall violate the provisions of this section shall for the 1st offense be subject to a fine of \$75.00, for the 2nd offense to a fine of \$150.00, for a 3rd offense and any subsequent offense to a fine of \$500.00, provided, that in the event there are no offenses in three successive years from the date of the last offense, then the next offense shall be treated as a 1st offense.

(Ord. No. [2016-15](#), 2-7-17)