

**AN ORDINANCE AMENDING CHAPTER 12, SECTIONS 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.14,
and 8.16 OF THE REVISED GENERAL ORDINANCES
OF THE TOWNSHIP OF WEST ORANGE
(Tobacco Product Vending Machines)**

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY that Chapter 12 of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

I. PURPOSE

The purpose of this ordinance is to revise the municipal code provision governing the sale of tobacco and tobacco products by raising the age required to purchase tobacco and tobacco products to the age of 21 from the current age of 18.

II. CHAPTER 12, SECTION 8.2 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.2 Definitions.

As used in this section:

Adult shall mean any male or female of the age of eighteen (18) years or older.

Health Department shall mean the Department of Health and Welfare of the Township of West Orange.

Health Officer shall mean the Director of Health and Welfare of the Township of West Orange or his/her designee.

License shall mean any license issued by the Township including, but not limited to, a liquor license, a license to sell or distribute food and beverages or a license to permit vending machines and/or mechanical amusement devices.

Liquor license shall mean any license to sell or distribute alcoholic beverages issued by the Township pursuant to the laws of the State of New Jersey.

Underaged Person shall mean any male or female under the age of twenty-one (21) years of age.

Person shall mean an individual, partnership, corporation, cooperative association, personal representative, receiver, trustee, assignee or any other legal entity.

Public place shall mean any building or enclosed structure open to the general public and any street, road, sidewalk, walkway, park or open space located within the Township and maintained for use by the general public.

Tobacco product shall mean any product made from the tobacco plant for the purpose of smoking, chewing, inhaling or other personal use including cigars, chewing tobacco, pipe

tobacco, snuff and cigarettes in any form. Tobacco products shall also include electronic cigarettes, e-vapor products, and dissolvable tobacco.

Tobacco retailer shall mean any person that operates a store, stand, booth, concession or place at which sales of tobacco are made including a person that owns, operates or uses a vending machine and/or a vending machine location.

Township shall mean the Township of West Orange.

Vending machine shall mean any automated self-service device which, upon insertion of money, tokens or other form of payment, dispenses a tobacco product.

Vending machine location shall mean the room, enclosure, space or area where a tobacco product vending machine is installed and/or operated.

III. CHAPTER 12, SECTION 8.3 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.3 Prohibition of Underaged Persons Using Tobacco Products in a Public Place.

It shall be unlawful for any underaged person to use tobacco in and/or on any public place or to possess in open view, an opened pack, opened carton or other opened container holding a tobacco product in any public place unless in the presence of a parent or guardian. A broken seal on any package or other container shall be evidence of an open container.

IV. CHAPTER 12, SECTION 8.4 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.4 Unlawful Purchase of Tobacco Products.

It shall be unlawful for any person to purchase a tobacco product; (a) with funds by an underaged person; or (b) with the intent to sell such a product to an underaged person.

V. CHAPTER 12, SECTION 8.5 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.5 Identification Required.

Any person selling or permitting to be sold a tobacco product to an individual shall first request and examine identification from the purchaser positively establishing that the individual's age is twenty-one (21) years or greater, unless the seller has some other reasonable grounds for determining the age of a minor.

VI. CHAPTER 12, SECTION 8.6 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.6 Prohibition of Underaged Persons Using Tobacco Products in a Public Place.

It shall be unlawful for any underaged person to use tobacco in and/or on any public place or to possess in open view, an opened pack, opened carton or other opened container holding a tobacco product in any public place unless in the presence of a parent or guardian. A broken seal on any package or other container shall be evidence of an open container.

VII. CHAPTER 12, SECTION 8.7 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

12-8.7 Sign Requirement.

The following six (6) inch by eight (8) inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products:

SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 OR SMOKING IN PUBLIC PLACES BY PERSONS UNDER THE AGE OF 21 IS PROHIBITED BY LAW. LEGAL PROOF OF AGE MUST BE SHOWN. A PERSON WHO SELLS OR OFFERS TO SELL A TOBACCO PRODUCT TO A PERSON UNDER 21 YEARS OF AGE MAY BE PROSECUTED IN ACCORDANCE WITH STATE STATUTES AND TOWNSHIP OF WEST ORANGE ORDINANCES.

VIII. CHAPTER 12, SECTION 8.14 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

8-8.14 Penalties.

- a. Unless otherwise provided by law, statute or ordinance, any person violating any provision of this section shall, upon conviction thereof, pay a fine of not less than two hundred fifty (\$250.00) dollars or more than one thousand (\$1,000.00) dollars for each offense. The complaint shall be made in the Municipal Court or before such other judicial officer having authority under the laws of the State of New Jersey.
- b. In addition any violator of this section shall be subject to having any Township license, as defined herein, held by the violator, suspended, revoked or fined. No such action may be taken unless the requirements of due process are satisfied.
- c. Any person who continually violates this section may also be charged in the Municipal Court or in Superior Court with maintaining a nuisance.
- d. These penalties are in addition to any penalties that may be imposed by the New Jersey Code of Juvenile Justice.
- e. In addition to the other fines and sanctions which may be issued by the Court, the Court may assess a monetary penalty of up to two hundred fifty (\$250.00) dollars per violation which shall be dedicated and forwarded to the Safe Housing Reward Fund. This Fund shall be maintained.

IX. CHAPTER 12, SECTION 8.16 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

This section shall take effect as provided by law after its final passage and publication.

X. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

XI. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

XII. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Victor Cirilo, Council President

Robert D. Parisi, Mayor

Approved as to form on the basis of the facts provided:

**Karen J. Carnevale, RMC
Municipal Clerk**

Introduced: January 19, 2016

Adopted: February 9, 2016

Legislative History

This ordinance is drafted to revise the municipal code provisions prohibiting the sale of tobacco and tobacco products to minors to increase the age required to purchase tobacco and tobacco products from 18 to 21. In addition, this ordinance also expands the definition of tobacco and tobacco products to include e-cigarettes.