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## Tobacco 21 Model Policy

### Definitions.

"Business" means a sole proprietorship, partnership, association, joint venture, corporation, or any limited liability form of any of the foregoing, or any other entity formed for any legal purpose, whether for profit, not for profit or charitable purposes, including, but not limited to retail establishments where goods or services are sold.

"Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials, Cigarette includes clove cigarettes and hand-rolled cigarettes.

"Distribute" means to furnish, give, or provide, whether gratuitous or for compensation in money, barter or in kind.

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"Liquid nicotine" means any liquid product composed either in whole or in part of pure nicotine and propylene glycol and/or any other substance and manufactured for use with e-cigarettes.

"Product Paraphernalia" means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of nicotine to include, but not limited to pipes, rolling papers, and electronic cigarette cases.

"Proprietor" means an owner, manager, operator, or other person who operates a place of business in which cigarettes, tobacco products, or alternative tobacco products are sold, including sales through vending machines.

"Retailer" means any person or business that operates a store, stand, booth, concession, or other place at which sales of tobacco products or alternative nicotine products are made to purchasers for consumption or use.

"Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, electronic nicotine delivery system including electronic cigarette, or other smoking equipment in any manner or in any form. "Smoking" does not include the burning or carrying of incense in a religious ceremony.

"Smoking materials" means any cigar, cigarette, pipe, weed, plant, electronic nicotine delivery system including electronic cigarette, tobacco, tobacco product, or other smoking equipment in any form.

"Tobacco Product" means any product that is made from or derived from tobacco, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The term also includes tobacco product paraphernalia, including but not limited to, electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

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Whereas, in November 2006, Ohioans voted in support of Issue 5, "SmokeFree Ohio", in the general election, eliminating indoor smoking and helping curb the public's exposure to secondhand smoke; and

Whereas, Ohio's average rates of high school and adult smokers exceed the national average, with an estimated 259,000 minors who will eventually die prematurely due to smoking-related illness, and 12,500 minors becoming daily smokers each year; and

Whereas, \$5.64 billion is spent annually for smoking-related health-care costs, yet Ohio still spends only 7.4% of the amount recommended by the Centers for Disease Control on tobacco prevention; and

Whereas, Ohio ranks 46 out of 50 for tobacco control and spending; and

Whereas, the prevalence of youth access to electronic nicotine delivery systems ("ENDS") such as e-cigarettes and vape pens has raised additional concerns about the consumption of tobacco and nicotine products, particularly given the potential adverse effects of nicotine on adolescent brain development; and

Whereas, contrary to beliefs about the "safety" of e-cigarettes, use of ENDS may nonetheless expose users and bystanders to nicotine and other harmful by-products; and

Whereas, the Ohio General Assembly enacted a statewide prohibition on the sale of e-cigarettes and liquid nicotine to minors in February 2014; and

Whereas, scientific evidence supports that raising the minimum age of smoking to twenty-one (21) can curb tobacco use and improve public health, and simultaneously lessen the ill effects of second-hand exposure; and

Whereas, (the City) wishes to continue its proactive public-health efforts, and, therefore, joins and encourages other municipalities to join the Ohio-initiated "Tobacco 21" movement.

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PROHIBITIONS:

(A) SALE TO PERSON UNDER 21 YEARS OF AGE PROHIBITED

- (1) No person, business, retailer, or other establishment shall sell, permit to be sold, or offer for sale to any person under twenty-one (21) years of age any cigarette, tobacco, tobacco product paraphernalia, electronic-smoking device, liquid nicotine, or smoking materials within the City.
- (2) Before distributing or selling any cigarette, tobacco product, e-cigarette or liquid nicotine, to another person, the person distributing or selling any cigarette, tobacco product, e-cigarette or liquid nicotine shall verify the person is twenty-one (21) years of age or older by:
  - a. examining from any person that appears to be under thirty (30) years of age a government-issued photographic identification that establishes the person is at least twenty-one (21) years of age; or
  - b. for sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered or provided by the person during the ordering process, that establishes that the person is twenty-one (21) years of age or older.
- (3) No person, business, retailer, or other establishment shall sell, or offer to sell cigarettes, smoking materials, or liquid nicotine, by or from a vending machine, except in an area within a business, office, or other place not open to the general public or an area to which children are not generally permitted access.
- (4) A violator of this section includes the person who sells, permits to be sold, or offers for sale cigarettes, smoking materials, or liquid nicotine to a person under twenty-one (21) years of age as well as his or her employer and any person who controls the person who sells, permits to be sold, or offers for sale any such product to a person under twenty-one (21) years of age.

(B) PROHIBITION OF SELF-SERVICE MERCHANDISING

- (1) No person, business, retailer, or other establishment engaged in the retail sale of cigarettes, tobacco products, e-cigarettes or liquid nicotine shall distribute, sell, permit to be sold, offer for sale, or display for sale cigarettes, tobacco products, e-cigarettes or liquid nicotine within the city by means of self-service merchandising.
- (2) No person, business, retailer, or other establishment engaged in the retail sale of e-cigarettes or liquid nicotine shall place cigarettes, tobacco products, e-cigarettes or liquid nicotine in an open display unit within the city unless the same is located in an area that is inaccessible to customers.
- (3) No person, business, retailer, or other establishment shall distribute, sell, offer to sell cigarette, tobacco, tobacco product paraphernalia, electronic-smoking device, liquid nicotine, or smoking materials by or from a vending machine, except in the following locations:

- a. An area within a business, office, or other place not open to the general public;
- b. An area to which children are not generally permitted access;
- c. Any other place not identified in subsection (B)(3)(a) or (b) of this section, upon all of the conditions related to tobacco vending machines provided in ORC § 2927.02.

(C) PROPER IDENTIFICATION

- (1) No person shall knowingly furnish any false information regarding the name, age, or other identification of any minor with purpose to obtain cigarette, tobacco, tobacco product paraphernalia, electronic-smoking devices, liquid nicotine, or smoking materials for that minor.
- (2) No person shall knowingly furnish any false information regarding that person's name, age, other identification, or relationship as the parent, legal guardian, or spouse of a minor with purpose to obtain cigarette, tobacco, tobacco product paraphernalia, electronic-smoking devices, liquid nicotine, or smoking materials for that minor.

(D) MUNICIPAL SMOKING PROHIBITIONS

- (1) Smoking is prohibited on City property, in City parks, and other public recreational facilities.

(E) PENALTIES

- (1) Whoever Violates Section (A) of this chapter is guilty of a fourth-degree misdemeanor, which shall be punishable by up to 30 days in jail and a maximum fine of \$250 for a first offense and up to 60 days in jail and a maximum fine of \$500 for a second offense. A third and each subsequent offense shall constitute a third-degree misdemeanor, which shall be punishable by up to 60 days in jail and a maximum fine of \$500.

(F) EDUCATION AND OUTREACH

- (1) All fines and monies collected under enforcement of this chapter shall be paid directly to the General Fund (or designated education fund) so that it may be used for tobacco education and prevention.

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