

**ORDINANCE No. 6345 (General)**

**AN ORDINANCE AMENDING THE SPRINGFIELD MUNICIPAL CODE SECTION 5.300 REGARDING SALE AND DISTRIBUTION OF TOBACCO, TOBACCO PRODUCTS, AND INHALANT DELIVERY SYSTEMS TO MINORS**

The City Council of the City of Springfield finds that:

WHEREAS, the 2015 Oregon Legislature enacted House Bill 2546 (2015), which amends the existing Indoor Clean Air Act to include regulation of inhalant delivery systems such as e-cigarettes in addition to tobacco products and cigarettes; and

WHEREAS, the Oregon Health Authority is in the process of developing administrative rules meant to reduce tobacco and e-cigarette sales to minors; and

WHEREAS, e-cigarettes are a new product and the City seeks to develop regulations that protect public health and safety; and

WHEREAS, the City of Springfield wishes to develop reasonable regulations for this product to prevent and prohibit the sale of e-cigarettes and other inhalant delivery systems to minors; and

WHEREAS, the City of Springfield believes it is in the best interest of the health, safety and welfare of the citizens of the city to adopt and include such regulations in the Municipal Code; and

WHEREAS, the City of Springfield has determined that the enforcement on the state level is consistent with City policy and other enforcement actions by the City.

NOW, THEREFORE, based on the foregoing recitals, the Common Council of the City of Springfield ordains as follows:

**Section 1.** Subsection 5.300 of the Springfield Municipal Code is hereby amended to read as follows:

"5.300 Sale and Distribution of Tobacco, Tobacco Products, and Inhalant Delivery Systems to Minors.

(1) Definitions. For the purposes of this section, the following mean:

Minor. Any person under eighteen years of age.

Civil Infraction. An offense against the City in the form of a violation of this section.

Cigarette. Any roll of tobacco wrapped in paper or in any substance not containing tobacco; tobacco, in any form, that is functional in the product and that, 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; any roll of tobacco that is wrapped in any substance containing tobacco and that, 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 this subsection; or as otherwise defined under Oregon law.

Tobacco Product. Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking; cigarettes; or as otherwise defined under Oregon law.

Tobacco Retail Store. A retail store utilized primarily for the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

Inhalant Delivery System. A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or a component of a device described in this subparagraph or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this subparagraph, whether the component or substance is sold separately or is not sold separately; or as otherwise defined under Oregon law. This definition does not include tobacco products, or any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose, or as otherwise exempted under Oregon law.

Inhalant Delivery System Retail Store. A retail store utilized primarily for the sale of inhalant delivery system products and accessories, and in which the sale of other products is merely incidental.

Vendor-assisted sales. Sales in which only a store owner or employee has access to the tobacco product or inhalant delivery system and assists the customer by supplying the tobacco product or inhalant delivery system, and in which the customer does not take possession of the tobacco product or inhalant delivery system until after it is purchased.

(2) License Fee. No tobacco or inhalant delivery system retailer's license shall be issued or continue to be valid unless the holder thereof has paid the fees as required by this section.

(3) Sales to Minors. It shall be a violation of this section for a retailer to sell tobacco products or inhalant delivery systems to minors.

(4) Vendor-Assisted Sales. Except as provided in subsection (5) of this section or sales by retail stores or from vending machines licensed by the city, no person or business may sell, permit to be sold, or offer for sale any tobacco product or inhalant delivery system by means other than vendor-assisted sales.

(5) Scope of Ordinance. This section shall not apply to tobacco vending machines regulated by Oregon state law, or to any business, retailer, or establishment that is licensed by the Oregon Liquor Control Commission for a dispensing license and where the premises are permanently and entirely off-limits to minors under rules adopted by the Oregon Liquor Control Commission.

(6) Non-retaliation. No person or employer may discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this section.

(7) License. Except as provided in subsection (5) of this section, no person or business shall sell or offer for sale any tobacco product or inhalant delivery system unless a license is obtained from the city in accordance with section 7.000 of this code. The license shall be renewed annually. The license is not transferrable. The license may be denied, suspended, or revoked on the basis of three violations of this section within a year, or upon failure to pay a fine specified in subsections (10) and (11) of this section. Denial or revocation of a license may be in addition to the penalties and forfeitures provided in subsections (10) and (11). An annual license fee will be established by resolution of the common council.

(8) Citation and Complaint.

(a) If a store clerk fails to comply with the provisions of subsections (1)-(7) of this section then a civil infraction citation signed by a Lane County public health representative or an Oregon state police officer shall be filed with the municipal court charging the person who failed to comply with a civil infraction and setting a date for the person to appear before the municipal court to answer the charge.

(b) The civil action citation, together with a complaint, shall be filed with the municipal court.

(c) The city prosecutor shall prescribe the form of the infraction citation and complaint. Additional parts may be inserted for administrative purposes by those charged with the enforcement of this section.

(d) The citation may also contain notice to the person cited that a civil complaint may be filed in the municipal court.

(e) The complaint shall contain a form of verification that the person signing the complaint swears or affirms that he or she has reasonable grounds to believe, and does so believe that the person committed the infraction.

(9) Service, Answer and Hearing.

(a) Service of the uniform civil citation shall be made as specified in section 5.616 of this code.

(b) A person who receives a citation alleging a civil infraction shall answer or respond as set forth in section 5.618 of this code.

(c) The hearing to determine whether a civil infraction has occurred shall be held in accordance with section 5.620 of this code.

(10) Penalties. Violation of this section shall be punishable as a violation and may include a fine not exceeding \$720.00 pursuant to SMC section 1.205. The fine will be levied against the store clerk who completed the illegal sale. Notice of the violation shall be sent to the tobacco products retail license holder.

(11) Forfeitures. If a cited person fails to answer the citation or appear at a scheduled hearing as provided in subsection (9) of this section default judgments, forfeitures and delinquent forfeitures may be entered by the court in accordance with subsections (1)- (3) of section 5.622 of this code and section 5.624 of this code. Nothing in this section shall limit the city from revoking or denying any city license or permit held or desired by a person owing a forfeiture to the city.

(12) Schedule of Forfeitures. A civil infraction under this section is classified for the purpose of determining forfeitures into the categories more particularly described and set forth in section 5.624 of this code. The forfeiture will be levied against the store clerk who completed the illegal sale. Notice of the violation and forfeiture shall be sent to the tobacco products retail license holder.

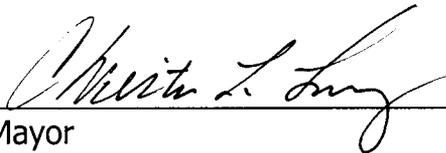
(13) Other Relief Preserved. Nothing in this section shall be construed as limiting the right of the city to seek damages, injunctive relief, or other appropriate relief under Oregon law for the termination of conduct in contravention of the code or ordinances of the city.

**Section 2.** Except as specifically amended herein, Chapter 5 shall continue in full force and effect.

**Section 3.** Effective Date of Ordinance. It is hereby found and determined that the matters relating to the adoption of this Ordinance are matters affecting the public health, safety and welfare and that an emergency therefore exists, and this Ordinance shall therefore take effect immediately upon its passage by the Council and approval by the Mayor.

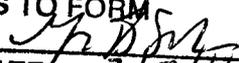
ADOPTED by the Common Council of the City of Springfield this 21 day of MARCH, 2016, by a vote of 5 for and 0 against.  
(1 ABS - Wylie)

APPROVED by the Mayor of the City of Springfield this 21 day of MARCH, 2016.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

**REVIEWED & APPROVED  
AS TO FORM**  
  
\_\_\_\_\_  
DATE: 3/7/16  
OFFICE OF CITY ATTORNEY