

**BILL NO. 16-07**

**ORDINANCE NO. 4.336**

**AN ORDINANCE AMENDING TITLE V, CHAPTER 155, SECTIONS 5.155.010, 5.155.080, and 5.155.090 OF THE CITY OF GLADSTONE, MISSOURI'S MUNICIPAL CODE RELATING TO THE REGULATION OF THE SALE AND DISTRIBUTION OF TOBACCO, ALTERNATIVE NICOTINE, AND VAPOR PRODUCTS TO MINORS UNDER THE AGE OF 21.**

**WHEREAS**, pursuant to Chapter 155 of the Municipal Code ("Code") of the City of Gladstone, Missouri (the "City"), the City has previously adopted regulations relating to the sale and distribution of cigarettes as authorized by Sections 407.924 to 407.934 of the Revised Statutes of Missouri (the "Tobacco Products Statutes"); and

**WHEREAS**, the Tobacco Products Statutes prohibit the sale and distribution of tobacco, alternative nicotine, and vapor products to any person under 18 years of age; and

**WHEREAS**, Chapter 155 of the Code currently prohibits the sale and distribution of cigarettes and tobacco products to any person under 18 years of age; and

**WHEREAS**, on January 11, 2016, the City Council held a study session and was presented with information regarding the benefits to the public of raising the minimum age for the sale and distribution of tobacco, alternative nicotine, and vapor products from 18 years of age to 21 and older; and

**WHEREAS**, Section 407.932 RSMo., authorizes the City to adopt more stringent ordinances and rules regarding the sale and distribution of tobacco, alternative nicotine, and vapor products; and

**WHEREAS**, based upon the information provided and its authority pursuant to Section 407.932 RSMo., the City Council desires to amend the Code relating to the regulation of the sale and distribution of tobacco, alternative nicotine, and vapor products to minors under the age of 21.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI AS FOLLOWS:**

Section 1. That the title of Chapter 155 of the Code be amended to read "Tobacco, Alternative Nicotine, and Vapor Products."

Section 2. That Section 5.155.010 be amended to modify the definition for "Minor", add definitions for "Alternative Nicotine Product", "Tobacco Product", and "Vapor Product", and to delete the definition for "Tobacco Vending Machine" and replace it with "Vending Machine" as follows:

*Alternative Nicotine Product* means any non-combustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

*Minor* means a person under 21 years of age.

*Tobacco Product* means any substance containing tobacco leaf including, but not limited to, blunt wraps, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products or vapor products.

*Vapor Product* means any non-combustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other form that may or may not contain nicotine. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product.

*Vending machine* means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, tobacco products, alternative nicotine products, or vapor products upon the insertion of coins, trade checks, slugs or credit cards.

Section 3. That Section 5.155.080 of the Code be amended to read as follows:

**Section 5.155.080. Illegal distribution of cigarettes, cigarette wrappers, tobacco, tobacco products, alternative nicotine products, and vapor products; duty of retailer to post notice.**

It is unlawful for any manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products or any agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products to do any of the following:

- (1) Give, sell or otherwise distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products to any minor;
- (2) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products in any place that does

not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products to a person under 21 years of age is prohibited by law;

- (3) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products to any person without first verifying, via a photo identification such as drivers license, that the person is 21 years of age or older.

Section 4. That Section 5.155.090 of the Code be amended to read as follows:

**Section 5.155.090. - Vending machines prohibited.**

Notwithstanding anything in this chapter to the contrary, it is unlawful to install, place or permit the use of any vending machine in any establishment which is open to minors, except in a place where the machine is not accessible to or cannot be used by minors; provided, however, that this section shall not apply to the installation and use by the proprietor, the proprietor's agent or employees, of vending machines behind a counter or in some place in any establishment in which access by minors is prohibited by law; provided, further, this section shall not apply to the installation and use of a vending machine in commercial buildings where the public is not usually admitted and where such machines are intended for the sole use of the employees who are not minors.

Section 5. That upon passage and approval, this Ordinance shall be in full force and its provisions shall take effect from and after March 1, 2016.


Section 6. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, ON THIS 8<sup>TH</sup> DAY OF FEBRUARY, 2016.**



\_\_\_\_\_  
Mayor Bill Garnos

ATTEST:

  
\_\_\_\_\_  
Ruth E. Bocchino, City Clerk

First Reading: February 8, 2016

Second Reading: February 8, 2016



Gladstone



2008

All-America City

TO: SCOTT WINGERSON, ASSISTANT CITY MANAGER  
FROM: AUSTIN GREER, GRADUATE ASSISTANT *AG*  
DATE: FEBRUARY 4, 2016  
SUBJECT: TOBACCO 21

On January 11, 2016, the City Council held a Study Session and was presented with information regarding the benefits to the public of raising the minimum age for the sale and distribution of tobacco, alternative nicotine, and vapor products from 18 years of age to 21 years of age and older.

**The proposed Tobacco 21 Ordinance ensures the following:**

- That the title of Chapter 155 of the Code be amended to read “Tobacco, Alternative Nicotine, and Vapor Products.
- That Section 5.155.010 be amended to modify the definition for “Minor”, add definitions for “Alternative Nicotine Product”, “Tobacco Product”, and “Vapor Product”, and to delete the definition for “Tobacco Vending Machine” and replace it with “Vending Machine”.
- Section 5.155.080. states that the illegal distribution of cigarettes, cigarette wrappers, tobacco, tobacco products, alternative nicotine products, and vapor products to those under the age of 21; duty of retailer to post notice.
- Section 5.155.090. states that vending machines are prohibited.
- That upon passage and approval, this Ordinance shall be in full force and its provisions shall take effect from and after March 1, 2016.
- That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

If the attached Tobacco 21 Ordinance passes and is approved on February 8, 2016, we are proposing that these provisions will not take effect until March 1, 2016. City staff believes that March 1, 2016, allows an adequate amount of time for staff to notify business owners to prepare for the change.

If there are any questions or concerns please feel free to contact me.

Deletions are shown in ~~strikethrough~~ and additions are shown in **bold and double underline**.

CHAPTER 155 – CIGARETTES TOBACCO, ALTERNATIVE NICOTINE, AND VAPOR PRODUCTS

Sec. 5.155.010. - Definitions.

*Alternative Nicotine Product* means any non-combustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

*Minor* means a person under ~~18~~ 21 years of age.

*Tobacco Product* means any substance containing tobacco leaf including, but not limited to, blunt wraps, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products or vapor products.

*Vapor Product* means any non-combustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other form that may or may not contain nicotine. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product.

~~*Tobacco vending machine* means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, trade checks, slugs or credit cards.~~

*Vending machine* means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, tobacco products, alternative nicotine products, or vapor products upon the insertion of coins, trade checks, slugs or credit cards.

Sec. 5.155.080. - Illegal distribution of cigarettes, cigarette wrappers, tobacco, ~~or~~ tobacco products, alternative nicotine products, and vapor products; duty of retailer to post notice.

It is unlawful for any manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products or any agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products to do any of the following:

- (1) Give, sell or otherwise distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products to any minor;
- (2) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products to a person under ~~18~~ 21 years of age is prohibited by law;
- (3) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products to any person without first verifying, via a photo identification such as a drivers license, that the person is ~~18~~ 21 years of age or older.

Sec. 5.155.090. - ~~Cigarette~~ Vending machines prohibited.

Notwithstanding anything in this chapter to the contrary, it is unlawful to install, place or permit the use of any ~~tobacco~~ vending machine in any establishment which is open to minors, except in a place where the machine is not accessible to or cannot be used by minors; provided, however, that this section shall not apply to the installation and use by the proprietor, the proprietor's agent or employees, of ~~tobacco~~ vending machines behind a counter or in some place in any establishment in which access by minors is prohibited by law; provided, further, this section shall not apply to the installation and use of a ~~tobacco~~ vending machine in commercial buildings where the public is not usually admitted and where such machines are intended for the sole use of the employees who are not minors.