

**An Ordinance amending the City Code, Title II, Public, Safety and Welfare, Chapter 210. Offenses, Article XIII, Offenses Concerning Tobacco, Alternative Nicotine Products or Vapor Products.**

**Whereas**, The Board of Alderman of The City of Foristell regulates the sale of tobacco products to minors by owners of business establishments, and

**Whereas**, The U.S. Food and Drug Administration has officially changed the federal minimum age to purchase tobacco from 18 to 21 as of December 20, 2019. The new minimum age applies to all tobacco products, including e-cigarettes and vaping cartridges.

**Therefore the following sections of the Code shall read as follows:**

**Section 210.2100 Definitions:**

Center of Youth Activities: Any playground, school or other facility, when such facility is being used primarily by persons under the age of twenty-one (21) for recreational, educational or other purposes.

Minor: A person under the age of twenty-one (21)

**Section 210.2105. No Tobacco Sales to Minors – Alternative Nicotine Products, Vapor Products and Nicotine Liquid Containers – Sale to Minors Prohibited.**

A. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco products to any person who is less than twenty-one (21) years of age.

C. Alternative nicotine products and vapor products shall only be sold to persons twenty-one (21) years of age or older, shall be subject to local and State sales tax. But shall not be otherwise taxed or regulated as tobacco products.

**Section 210.2110 Unlawful to Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors –Vending Machine Requirements.**

A. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products or vapor products to persons under twenty-one (21) years of age.

B. All vending machines that dispense tobacco products, alternative nicotine products or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than twenty-one (21) years of age from purchasing any tobacco product, alternative nicotine product or vapor product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than twenty-one (21) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (D) of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

H. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product or vapor product to any individual less than twenty-one (21) years of age in violation of Subsection (A), (B) or (C) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older.

**Section 210.2120 Minors Prohibited from Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products – Misrepresentation of Age.**

A. No person less than twenty-one (21) years of age shall purchase, attempt to purchase or possess cigarettes, tobacco products, alternative nicotine products or vapor products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B.

Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase cigarettes, tobacco products, alternative nicotine products or vapor products.

**Section 210.2140. Required Sign Stating Violation of State Law to Sell Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors Under Age 21 – Display of Sign Required, Where.**

2. Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle and the words "Under 21."

**Section 210.2160 Proof of Age Required, When Defense to Action for Violation is Reasonable Reliance on Proof – Liability.**

A person or entity selling tobacco products, alternative nicotine products or vapor products or rolling papers or distributing tobacco product, alternative nicotine product or vapor product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of twenty-one (21).

B. The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Division of Alcohol and Tobacco Control or any owner or employee of an establishment that sells tobacco products, alternative nicotine products or vapor products for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least twenty-one (21) years of age when such person desires to purchase or possess tobacco products, alternative nicotine products or vapor products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.


**READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF FORISTELL, MISSOURI, THIS 18<sup>TH</sup> DAY OF FEBRUARY 2020.**

  
Mark Meyerhoff, Board President

Bill No. 02-20

Ordinance No. 850

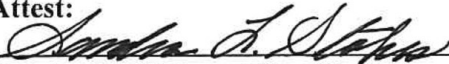
Attest:

  
Sandra L. Stokes, City Clerk

APPROVED BY THE BOARD PRESIDENT OF THE CITY OF FORISTELL, MISSOURI THIS  
18<sup>th</sup> DAY OF FEBRUARY 2020.

  
Mark Meyerhoff, Board President

Attest:

  
Sandra L. Stokes, City Clerk