

ORDINANCE 2023-05

AN ORDINANCE AMENDING CHAPTERS 112: TOBACCO REGULATIONS

The Breezy Point City Council so Ordains that Chapter 115 of the Code of Ordinances is amended as follows:

Section 1. Sections Repealed

~~§ 112.01 UNLAWFUL USE AND FURNISHING OF TOBACCO~~

~~(A) It is unlawful for any person, under the age of 18 years, to use tobacco in any form.~~

~~(B) It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of 18 years.~~

Section 2. Amendments

§ 112.01 DEFINITIONS.

(A) Tobacco or Tobacco Products - “Tobacco” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; 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 kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(B) Tobacco Related Devices - “Tobacco Related Devices” means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco

products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(C) Self-Service Merchandising - “Self-Service Merchandising” means open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices electronic delivery devices, and nicotine or lobelia delivery products without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

(D) Electronic Delivery Device - “Electronic Delivery Device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

(E) Nicotine or Lobelia Delivery Products - “Nicotine or Lobelia Delivery Products” are any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

§ 112.02 GENERAL PROVISIONS AND REQUIREMENTS.

(A) It shall be a violation of this ordinance for any person under the age of 21 to possess any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery product.

- (B) It shall be a violation of this ordinance for any person under the age of 21 to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery product.**
- (C) It is unlawful for any person to furnish any tobacco, tobacco product, tobacco related electronic delivery device, or nicotine or lobelia delivery product by any manner or means and in any form, to any person under the age of 21 years.**
- (D) No person shall sell, offer to sell, or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery product by any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other Local law.**
- (E) It is unlawful for any person to use tobacco, tobacco products, tobacco related electronic delivery device, or nicotine or lobelia delivery product in any form on public lands owned by the City of Breezy Point excluding easements and right-of-ways therein.**

§ 112.03 VIOLATIONS

- (A) Any violation of this ordinance by a person 21 years of age or older shall be considered a petty misdemeanor for the first violation and misdemeanor for any subsequent offense within five years of the previous conviction as described in § 10.99 of this Code and State Statute.**
- (B) A person under the age of 21 who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, shall be subject to non-criminal, non-monetary civil penalties including but not limited to tobacco-related education classes, diversion programs, community services, or another penalty that the City determines to be appropriate. The City Council may consult with interested persons, as applicable, including but not limited to court personnel, educators,**

parents, guardians, and persons under the age of 21 years to determine an appropriate penalty for persons under the age of 21 in the city.

Section 3. Effective date

This ordinance becomes effective from and after its passage and publication.

Adopted this 4th day of December 2023 by the Breezy Point City Council.


Mayor Angel Zierden

Attest:


David C. Chanski, City Administrator/Clerk