

City of Winterville Tobacco Free Generation Ordinance

AN ORDINANCE TO ESTABLISH A TOBACCO FREE GENERATION IN THE CITY OF WINTERVILLE TO PROVIDE FOR THE CONTINUED GOOD HEALTH OF THE CITIZENS OF WINTERVILLE; TO PREVENT THE NEXT GENERATION OF WINTERVILLE CITIZENS FROM ENDANGERING THEIR HEALTH THROUGH THE ADDICTION TO TOBACCO AND NICOTINE INHALATION PRODUCTS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE WINTERVILLE CITY COUNCIL.

SECTION I

Purpose

In support and furtherance of its findings and determination that the health of its citizens is of great importance to the City of Winterville and that the preservation of the health of future generations is among the most important functions of city government and that the prevention of future generations from becoming addicted to tobacco products and products that deliver nicotine via inhalation is essential to the promotion of the health, prosperity and general welfare of the people; and

WHEREAS the U.S. Centers for Disease Control estimates that more than 20 million Americans' lives have been cut short due to tobacco-caused disease over the past 50 years;[1]

WHEREAS cigarettes and other tobacco products continue to kill more than 400,000 Americans a year and cost more than \$100 billion in direct health care spending;[2]

WHEREAS people who never start using tobacco products will not become addicted;

WHEREAS there is no justification for allowing another generation to have easy access to a highly addictive and deadly product;

WHEREAS fifty years after the first Surgeon General's Report on Smoking and Health, cigarettes have become more addictive and dangerous, not less; [3]

WHEREAS cigarette smoking among high school students is at the lowest level in more than two decades; [4]

WHEREAS there is substantial evidence that e-cigarette use among young people significantly increases the risk of transitioning to smoking conventional cigarettes; [5]

WHEREAS the estimated lifetime average total costs to a smoker from Georgia are in excess of \$1,150,000; [6]

WHEREAS the next generation should be a Tobacco-Free Generation unencumbered by tobacco-caused addiction and disease;

WHEREAS the majority of American adults (75%) and adolescents (76%) favor raising the minimum age to purchase tobacco products from the current age of eighteen; [7] [8] and

WHEREAS the next generation has never been legally sold tobacco products and, by never starting such sales, nothing has been taken away from them.

THEREFORE, The Winterville City Council does hereby declare it to be the purpose and intent of this Ordinance that any holder of a tobacco sales license or permit issued by the State of Georgia Department of Revenue, or any employee or agent of same, is prohibited from selling, distributing, delivering, offering for sale, or giving away, or possessing with the intention of selling, distributing, delivering, offering for sale, or giving away tobacco products, Electronic Nicotine Delivery Systems, or alternative nicotine delivery devices within the City of Winterville to any individual that was born on or after January 1, 2000, whether said tobacco products, Electronic Nicotine Delivery Systems, or alternative nicotine delivery devices are sold, distributed or delivered in person or via vending machine.

SECTION II Definitions

A. **“Tobacco Product”** – Means cigars, cigarettes, smokeless tobacco, pipe tobacco and roll-your-own tobacco. Smokeless tobacco means any snuff or chewing tobacco. Heat-not-burn (HNB) tobacco devices. [9] [10]

B. **“Cigar”** - Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of the definition for cigarette).

C. **“Cigarette”** - (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (2) Any roll of tobacco wrapped in any substance containing tobacco which, 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 the definition of “Tobacco Product”.

D. **“Smokeless Tobacco”** – (1) **Snuff**. Any finely cut, ground, or powdered tobacco that is not intended to be smoked but is used orally or nasally. (2) **Chewing tobacco**. Any leaf tobacco that is not intended to be smoked but is used orally.

E. **“Pipe tobacco”** - Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe, waterpipe, hookah or similar device.

F. **“Roll-your-own tobacco”** - Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

G. **“Heat-not-burn (HNB) tobacco device”** - Any device that heats tobacco (or a tobacco derivative) to a temperature that is lower than that of a conventional cigarette, cigar or pipe in which tobacco is burned, for the intention of inhalation by users.

H. **“Electronic Nicotine Delivery Systems (ENDS)”** – ENDS are handheld devices that produce an aerosolized mixture from a solution typically containing concentrated nicotine, flavoring chemicals, and propylene glycol to be inhaled by the user.

I. **“Alternative nicotine delivery device”** means any noncombustible product containing nicotine that is intended for human consumption via inhalation.

SECTION III Penalty Provisions

Violations of any provision of this Ordinance shall be prosecuted as a misdemeanor with fines as follows:

First Offense - \$100

Second Offense - \$250

Third Offense - \$500

Fourth Offense – Suspension of Winterville business license.

SECTION IV Severability

In the event that any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjunction shall in manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally part thereof.

SECTION V Repealer

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION VI Effective Date

This Ordinance shall become effective on March 7, 2018.

THEREFORE BE IT RESOLVED, that the Winterville City Council do hereby ordain, resolve and enact the foregoing Tobacco Free Generation Ordinance for the City of Winterville.

Adopted this _____ day of _____.

Date of Implementation: _____ day of _____.

APPROVED: WINTERVILLE CITY COUNCIL

BY:

_____ (Mayor)

ATTEST:

_____ (City Clerk)

[1] U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

[2] Id.

[3] Campaign for Tobacco-Free Kids. Designed for Addiction: How Tobacco Companies Have Made Cigarettes More Addictive, More Attractive to Kids and More Deadly (June 23, 2014). http://www.tobaccofreekids.org/press_office/2014/designedforaddiction

[4] U.S. Centers for Disease Control and Prevention. Youth Risk Behavior Surveillance – United States, 2013. Morbidity and Mortality Weekly Report, June 13, 2014. Accessed at: <http://www.cdc.gov/mmwr/pdf/ss/ss6304.pdf>.

[5] National Academies of Sciences, Engineering, and Medicine. 2018. *Public*

health consequences of e-cigarettes. Washington, DC: The National Academies Press. doi:
<https://doi.org/10.17226/24952>.

[6] *The Real Cost of Smoking by State*. 2018.
<https://wallethub.com/edu/the-financial-cost-of-smoking-by-state/9520/>

[7] Attitudes Toward Raising the Minimum Age of Sale for Tobacco Among U.S. Adults (2015). *Am J Prev Med.*; 49(4): 583–588. doi:10.1016/j.amepre.2015.05.012.

[8] Public Health Research, Practice and Policy. (2017) Centers for Disease Control. Volume 14, E112 www.cdc.gov/pcd/issues/2017/17_0255.htm

[9] Federal law (section 5702(c) of Title 26 of the United States Code)

[10] DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration
21 CFR Parts 1100, 1140, and 1143 [Docket No. FDA–2014–N–0189] RIN 0910–AG38
Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products.