

STORY COUNTY ORDINANCE #227

STORY COUNTY ORDINANCE PROHIBITING THE SALE OF NICOTINE DELIVERY SYSTEMS AND UNREGULATED PRODUCTS CONTAINING NICOTINE WITHOUT A RETAIL CIGARETTE OR TOBACCO PRODUCTS PERMIT, RESTRICTING PUBLIC DISPLAY AND PUBLIC ACCESS TO SUCH PRODUCTS AND PROHIBITING THE SALE OF NICOTINE DELIVERY SYSTEMS AND UNREGULATED PRODUCTS CONTAINING NICOTINE TO MINORS

BE IT ENACTED by the Board of Supervisors, Story County, Iowa, that the Story County Ordinance Prohibiting the Sale of Nicotine Delivery Systems and Unregulated Products Containing Nicotine Without a Retail Cigarette or Tobacco Products Permit, Restricting Public Display and Public Access to Such Products and Prohibiting the Sale of Nicotine Delivery Systems and Unregulated Products Containing Nicotine to Minors is hereby enacted as set out in full hereafter, to be codified as Chapter 50 of the Story County Code of Ordinances.

Repealer: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Severability Clause: If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of either the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Effective Date: This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Considered _____, _____, and _____ 2013.

Passed and approved this _____ day of _____, 2013.

Published in the Ames Daily Tribune on _____.

STORY COUNTY BOARD OF SUPERVISORS

Chairperson

Supervisor

Supervisor

ATTEST

Story County Auditor and Secretary to the Board of Supervisors

CHAPTER

50

STORY COUNTY ORDINANCE PROHIBITING THE SALE OF NICOTINE DELIVERY SYSTEMS AND UNREGULATED PRODUCTS CONTAINING NICOTINE WITHOUT A RETAIL CIGARETTE OR TOBACCO PRODUCTS PERMIT, RESTRICTING PUBLIC DISPLAY AND PUBLIC ACCESS TO SUCH PRODUCTS AND PROHIBITING THE SALE OF NICOTINE DELIVERY SYSTEMS AND UNREGULATED PRODUCTS CONTAINING NICOTINE TO MINORS

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DEFINITIONS

“*Minor*” means any person under the age of eighteen.

“*Nicotine Delivery System*” means any oral device, such as one composed of a heating element, battery, cartridge and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor, and shall include any component parts of such devices. The term “Nicotine Delivery System” does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“*Retailer*” means any person whose name appears on the retail sales tax permit.

“*Sell*” means the exchange of a product defined in this chapter for money or other consideration.

“*Cessation product*” means anything designed for the purpose of helping people stop smoking cigarettes or using other forms of nicotine and/or tobacco. Smoking cessation products that contain nicotine are also called nicotine substitution products or nicotine replacement therapy. There are four forms approved by the Food and Drug Administration (FDA) as of 2001—chewing gum, skin patch, nasal spray, and inhaler.

“*Unregulated Product Containing Nicotine*” means any product containing biologically active or synthetically derived nicotine and not defined or regulated under current United States Food and Drug Administration laws. The term “Unregulated Product Containing Nicotine” does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“*Point-of–Purchase Signage*” means any sign but not including the actual product.

42.2 STATE STATUTES INCORPORATED

Iowa Code Sections 331.302 and 331.307 are incorporated by this reference.

42.3 SALES, DISPLAY AND ACCESS PROHIBITED

(a) It is a violation of this Chapter for any person to sell a nicotine delivery system or an unregulated product containing nicotine to a minor.

(b) It is a violation of this Chapter for any person or retailer to sell nicotine delivery systems and/or unregulated products containing nicotine without a retail cigarette or tobacco products permit.

(c) It is a violation of this Chapter for any person or retailer to place nicotine delivery systems and/or unregulated products containing nicotine in displays which are either visible and/or accessible to the public that do not require the assistance of a retailer or an employee of a retailer. This chapter does not prevent a retailer from displaying point-of-purchase signage advertising a product defined in this chapter.

42.4 ENFORCEMENT

Any peace officer, public health officer or private citizen who witnesses a violation of this Chapter may file a report with the Story County Health Department who may investigate the matter and/or may enlist the assistance of local law enforcement. Violations of this Chapter shall be enforced as county infractions pursuant to Chapter 50, of the Story County Code of Ordinances. In addition to the penalties provided in this Chapter, injunctive relief intended to prevent further violations of this Chapter may be sought.

42.5 INFRACTION PENALTIES

The following penalties shall apply:

- 1) First offense: \$250
- 2) Second offense: \$500 (the date of the second offense occurring within one year of the conviction date of a first offense)
- 3) Third and subsequent offenses: \$750 (the date of the third or subsequent offense occurring within two years of the conviction date of a second offense)

Each violation of this ordinance constitutes a separate offense. Convictions for violations of this ordinance and any failure to pay the penalties and/or costs associated with such convictions shall be reported to the governmental body responsible for issuing retail cigarette or tobacco products permits and may, in addition to the penalties contained in Chapter 50, Story County Code of Ordinances, result in the governmental body taking action to suspend, revoke, deny application for or renewal of an annual retail cigarette or tobacco products permit.

42.6 JURISDICTION

This ordinance is in effect throughout Story County, Iowa, including incorporated areas of a city, except where a Municipal Ordinance exists regulating Nicotine Delivery Systems and Unregulated Products Containing Nicotine defined in this ordinance.