

ORDINANCE NO. 2017- 17

**AN AMENDMENT TO CHAPTER 170 OF THE
ORDINANCES OF THE TOWN OF BARRINGTON**

Chapter 170

TOBACCO – FLAVORED TOBACCO PRODUCTS

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WHEREAS, smoking has been deemed to be a hazard to the health and safety of the citizens of the Town of Barrington; and

WHEREAS, long-term smoking has been linked to emphysema, lung cancer, coronary heart disease, and other deadly or life-altering diseases; and

WHEREAS, cigarette smoking causes more than 480,000 deaths each year in the United States; and

WHEREAS, once people reach an age of responsible decision making they are less likely to start smoking; and

WHEREAS, where persons do not become addicted to smoking at a young age, they are less likely to become life-long smokers; and

WHEREAS, the Rhode Island Legislature did not intend to wholly occupy the entire field of tobacco regulation; and

WHEREAS, the Rhode Island Department of Health has lauded the Town's efforts to prevent cigarettes from getting into the hands of persons who are under 21 years of age.

NOW THEREFORE, BE IT KNOWN, that the Town of Barrington hereby creates an Ordinance prohibiting regulating flavored tobacco products:

Sections 170-1 through 170-4 are hereby enacted as follows.

§ 170-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARACTERIZING FLAVOR

A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint, or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

ELECTRONIC SMOKING DEVICE

An electronic device which can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately.

ELECTRONIC SMOKING DEVICE ESTABLISHMENT

Any business which does not sell food or beverages and for which the principal or core business is selling electronic smoking devices, as evidenced by any of the following: 33% or more of floor or display area is devoted to electronic smoking devices; or 67% or more of gross sales receipts are derived from electronic smoking devices.

FLAVORED TOBACCO PRODUCT

Any tobacco product, other than a cigarette, that contains a constituent that imparts a characterizing flavor.

PERSON

Any natural person, partnership, firm, joint-stock company, corporation, or employee thereof, or other legal entity.

SALE or SELL

Any transfer, exchange, barter, gift, offer for sale, or distribution, in each case for a commercial purpose, in any manner or by any means whatsoever.

TOBACCO PRODUCT

A. Means:

(1)

Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff; and

(2)

Any device that delivers nicotine to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

B.

Notwithstanding any provision of Subsection A(1) and (2) in this definition to the contrary, "tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes.

§ 170-2. Sale of flavored tobacco.

(A) This Section shall not apply to an electronic smoking device establishment as defined herein.

(B) Other than in an electronic smoking device establishment, the sale of flavored tobacco products is prohibited.

(1)

No person shall sell any flavored tobacco product to a consumer.

(2)

A non-cigarette tobacco product is presumed to be a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees has:

(a)

Made a public statement or claim that the non-cigarette tobacco product has or produces a characterizing flavor, including, but not limited to, text and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate information about the flavor, taste, or aroma of a non-cigarette tobacco product; or

(b)

Taken action directed to consumers that would be reasonably expected to result in consumers believing that the non-cigarette tobacco product imparts a characterizing flavor.

§ 170-3. Fines.

A person who violates any provision of this Chapter shall be subject to a fine of \$100 for each separate offense.

§ 170-4. Severability.

If any provision of this chapter, or application thereof to any person or circumstances, is held unconstitutional, illegal, or otherwise invalid, the remaining provisions of this chapter and the application of such provisions to other persons or circumstances, other than those to which it is held invalid, shall not be affected thereby.

§§ 170-5 – 170-8 Reserved.

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This ordinance shall take effect thirty (30) days following its passage.



Council Member

Filed: 9-26-2017

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Adopted: _____

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