

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 999

AN ORDINANCE TO ADD CHAPTER 119 TO THE LA VISTA MUNICIPAL CODE PRESCRIBING REGULATIONS FOR THE SALE OF TOBACCO PRODUCTS; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. AMENDMENT OF CODE OF ORDINANCES. The Code of Ordinances of the City of La Vista, Nebraska, be and hereby is amended by adding a new Chapter to be numbered Chapter 119, which shall be as follows:

CHAPTER 119: TOBACCO PRODUCT SALE REGULATIONS

SECTION 119.01 FINDINGS AND INTENT

The City Council of the City of La Vista hereby declares that it is the policy of the City to affirm the scientific evidence that the use of tobacco products is casually connected to many diseases and is dangerous to human health. Placing tobacco products out of the reach of children will reduce the likelihood of children to use tobacco products.

SECTION 119.02 DEFINITIONS.

The following words, terms and phrases, when used in Chapter 119 shall have the meaning ascribed to them in this Section 119.02, except where the context clearly indicates a different meaning:

A. "Place of Business" means a place where tobacco products are sold at retail, including vending machines.

B. "Responsible person" means any person, firm, association, company, partnership, or corporation or agent or employee of same who operates a store, stand, booth, concession or other place at which tobacco sales are made to purchasers. A responsible person as defined and applied herein must be an individual 18 years or older.

C. "Tobacco products" shall mean (1) cigarettes, (2) cigars, (3) cheroots, (4) stogies, (5) periques, (6) granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, (7) snuff, snuff flour, Cavendish, plus and twist tobacco, fine cut and other chewing tobacco, (8) shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and (9) anything containing tobacco or any other kinds and forms to tobacco prepared in such manner as to be suitable for either chewing, smoking in a pipe, chewing and smoking, or inhaling and snorting through the nose.

D. "Vending machine" means any device or machine requiring the deposit of money or other things of value, including any such device or machine activated or operated by the vendor or by an employee or agent of the vendor.

E. "Vendor-assisted access" means access to tobacco or tobacco products only with the direct assistance of the vendor or a vendor employee or agent, so that customers do not have direct access to take possession of tobacco or tobacco products without direct assistance from the vendor or a vendor employee or agent.

SECTION 119.03 CERTAIN FORMS OF DISTRIBUTION PROHIBITED.

A. It shall be unlawful to sell cigarettes or other tobacco products in any form except original factory-wrapped packages. The sale of single cigarettes is specifically prohibited.

B. It shall be unlawful for any person or organization to give away, hand out, or otherwise distribute free samples of cigarettes or other tobacco products, or coupons that can be redeemed for free samples of cigarettes or other tobacco products, on public property or property that is open to the general public within the City's jurisdiction.

C. It shall be unlawful to commingle tobacco products with any other product for sale from a single vending machine.

D. It shall be unlawful for any person to (1) sell, permit to be sold, or offer for sale tobacco or tobacco products by means other than vendor-assisted access, or (2) display tobacco or tobacco products in a manner allowing customers access to tobacco or tobacco products without vendor

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assistance. The requirements of this subsection (D) shall not apply to a separate humidior room in which no one under the age of 18 years is allowed to enter and which bears a sign to that effect.

E. Cigarettes or other tobacco products may be dispensed from a vending machine or similar device when such machine or device is located in an area, office, business, plant, or factory which is not open to the general public or on the licensed premises of any establishment having a license issued under the Nebraska Liquor Control Act for the sale of alcoholic liquor for consumption on the premises when such machine or device is located in the same room in which the alcoholic liquor is dispensed.

SECTION 119.04 PENALTY.

Unless a penalty is otherwise provided in applicable state statute or in another chapter or section of this code with respect to a particular violation, an person, firm or entity that violates any of the provisions of this chapter, including but not limited to any neglect or refusal to comply therewith or opposition to the enforcement thereof, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to: for a first offense violation, a fine in any amount not in excess of \$500 at the discretion of the court; and for a second offense violation, a fine in any amount not in excess of \$1,000 or imprisonment for not more than six months, or both. Each day on which a violation continues shall be deemed a separate violation and offense hereunder.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unenforceable or invalid, such unconstitutionality, unenforceability or invalidity shall not affect the constitutionality, enforceability or validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, unenforceable or invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon its passage, approval and publication as required by law.

PASSED AND APPROVED THIS 18TH DAY OF JULY 2006.

CITY OF LA VISTA



Douglas D. Kindig, Mayor

ATTEST:



Rita M. Ramirez, CMC
City Clerk

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