

ORDINANCE NO. 945

AN ORDINANCE ESTABLISHING A LICENSING PROCESS  
FOR THE RETAIL DISTRIBUTION OF TOBACCO AND  
TOBACCO PRODUCTS AND ESTABLISHING PENALTIES  
FOR VIOLATORS THEREFORE.

BE IT ORDAINED BY THE COUNCIL OF CITY OF CLINTON, OKLAHOMA, §4.8.1 through 4.8.11. of the Clinton City Code are hereby established to read as follows:

**4.8.1. Definitions.**

The following terms are defined for the purpose of this chapter as follows:

(A) “Retail tobacco dealer” means any person selling, offering for sale, exposing for sale or keeping with the intention of selling or exchanging at retail, tobacco products, or tobacco accessories in the city.

(B) “Tobacco products” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, smoking tobacco, and/or smokeless tobacco.

(C) “Tobacco accessories” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed primarily for the smoking or ingestion of tobacco products.

(D) “Person” means an individual, firm, partnership, joint venture, association, corporation, estate, trust, trustee, or any other group or combination acting as a unit, excepting the United States of America, the State of Oklahoma, and any political subdivision thereof.

(E) “Tobacco product sampler” means any person engaged in the business of tobacco product sampling, other than a retail tobacco dealer.

(F) “Tobacco product sample” means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

(G) “Tobacco product sampling” means the distribution of tobacco product samples to members of the general public.

(H) “Health Officer” means the individual appointed by the City Manager to fill the office of Health Officer as identified in the Charter.

**4.8.2. Licensing requirements for retail tobacco dealers.**

No person shall engage in the business of a retail tobacco dealer without first having obtained a license therefor. A separate license shall be required for each establishment at which tobacco

products or tobacco accessories are sold. The license shall designate the period of time for which the license is valid, shall contain a reproduction of the city seal; and such other language as may be prescribed by the Manager. A replacement license emblem will not be issued unless the application for such replacement emblem is accompanied by a police report of the incident in which the emblem to be placed was lost, stolen or mutilated, or unless the remnants of the emblem being replaced are submitted with the replacement application.

#### **4.8.3. Licensing requirements for tobacco product samplers.**

No person shall engage in the business of a tobacco product sampler without first having obtained a license therefor. A license shall entitle the holder to distribute tobacco product samples during the term of the license. The licensee shall notify the department of business affairs and consumer protection of the location(s) at which the licensee proposes to conduct tobacco product sampling pursuant to such license not less than 30 days prior to conducting such tobacco product sampling at such location(s). The license or copy thereof must be carried at all times by the licensee, or employees or agents of the licensee, at any location where such licensee, employees or agents are engaged in tobacco product sampling. Notwithstanding any other provision of law, a tobacco product sampler's license shall not be required as a condition of distributing tobacco product samples at a location for which a retail tobacco dealer's license has been issued.

#### **4.8.4. License – Application.**

An application for a retail tobacco dealer's license and a tobacco product sampler's license shall be made in conformity with the general requirements of this Code relating to 4-1 of this Code.

#### **4.8.5. Tobacco products-vending machines – Prohibited.**

No person shall engage in the business of a retail tobacco dealer using a cigarette-vending machine.

For the purpose of this section, “cigarette-vending machine” means any mechanical device used for retail sales of tobacco products, the operation of which is governed or controlled by use of currency, a coin, a token, or credit or debit card.

#### **4.8.6. License – Transfer prohibited.**

The transfer of any license issued hereunder is hereby expressly prohibited.

#### **4.8.7. Recordkeeping.**

Every retail tobacco dealer shall keep a book in which there shall be made at the time of the transaction a record in English of all purchases of cigarettes and in which shall be set forth the name and address of the place of business of the person from whom purchased, the date of the transaction, the seller's invoice number, the number of the city wholesale tobacco dealer's license of the person from whom purchased, and a description of the cigarettes purchased. The said book and all cigarettes purchased, received or kept for sale by every retail tobacco dealer shall be open at all

reasonable times to the inspection of the mayor, any member of the police force, or any member of the department of business affairs and consumer protection or the department of finance, duly authorized in writing for such purpose by the superintendent of police, or commissioner of business affairs and consumer protection or the comptroller.

#### **4.8.8. Sanitary and health requirements – Inspections.**

It shall be the duty of the Health Officer, and it is hereby authorized and empowered, from time to time to inspect and examine all places where cigarettes are licensed to be sold at retail within the city, with a view of ascertaining whether the laws of the state and the provisions of this Code in relation to the sale of cigarettes are being complied with at such places, and it shall be its duty to cause all such laws and code provisions to be rigorously enforced; and it shall be the duty of all persons licensed to sell cigarettes at retail within the city, upon the demand of the Health Officer, to furnish to said board for its inspection samples of all cigarettes sold or offered for sale by them, which samples of cigarettes shall be analyzed by or under the direction of said board, and a record of such analysis shall be made and kept in its office for the inspection of the public.

No person shall expose for sale, sell or offer for sale to any person, directly, indirectly, within the city, any cigarette or cigarettes containing opium, morphine, jimsonweed, belladonna, strychnia, cocaine or other deleterious or poisonous drug or drugs.

#### **4.8.9. Prohibited locations.**

No person shall sell, give away, barter, exchange or otherwise deal in tobacco products, tobacco product samples or tobacco accessories at any place located within 300 feet of any building or other location used primarily as a school, child care facility, or park or for the education or recreation of children under 18 years of age. All existing establishments shall be grandfathered.

Bookmark4-64-181 Distribution of tobacco products samples prohibited.

(a) No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco products, samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, sidewalk, or in any public park, ground or playground, or in areas open to the public in any publicly owned or operated building except as permitted in subsection (b) of this section.

(b) Tobacco product samples, and coupons redeemable for tobacco products, may be distributed in a publicly owned or operated building: (i) at a location for which a retail tobacco dealer's license has been issued; or (ii) in a separately enclosed area to which persons under the age of 18 are denied admission at an event sponsored in whole or in part by a manufacturer of tobacco products. This section does not prohibit the distribution of coupons included in newspapers, magazines or other publications.

Any person who violates this section shall be subject to a fine of in accordance with 1-4-1.

#### **4.8.10. Sale of bidi cigarettes and other tobacco products.**

(a) No person shall sell, give away, barter, exchange or otherwise furnish to any other person a bidi cigarette. As used in this section, "bidi cigarette" means a product that (i) contains tobacco that is wrapped in temburni or tendu leaf, or that is wrapped in any other material identified by regulation of the board of health because the material is similar in appearance or other characteristics to the temburni or tendu leaf and (ii) does not contain a smoke filtering device.

(b) No person shall sell, give away, barter, exchange or otherwise furnish to any other person any cigarette wrapping paper or wrapping leaf that is, or is held out to be, impregnated or scented with, or aged or dipped in, alcoholic liquor, chocolate, any fruit flavoring, vanilla, or honey in any combination.

(c) Any person who violates this section shall be subject to a fine in accordance with 1-4-1 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

**4.8.11 Suspension, revocation and nonrenewal of licenses.**

(a) Knowing or repeated violation of any provision of Sections 4.8.1 et seq. Or 6-2A-1 et seq. by a licensee shall be grounds for revocation or suspension of such license. For purposes of this section, "license" includes any and all licenses issued by any officer, department or agency of the City of Clinton required for retail or other business operations at the location at which the offense occurred, and includes but is not limited to retail tobacco licenses.

(b) When any license issued pursuant to this chapter shall have been revoked for any cause, no retail tobacco dealer's license or tobacco product sampler's license shall be granted to such person for any premises for a period of one year thereafter. In the case of a legal entity, all owners, officers and directors of the entity shall be subject to the prohibition of this subsection.

(c) When any license issued pursuant to this chapter shall have been revoked for any cause, no license shall be granted to any person for the period of one year thereafter for conducting the business of selling tobacco in the premises described in such revoked license unless the revocation order was entered as to the licensee only.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
SETH ADAMS, Mayor

ATTEST:

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LISA ANDERS, City Clerk