

ORDINANCE NO. 35, 1991
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADDING ARTICLE IV TO CHAPTER 12 OF THE
CODE OF THE CITY OF FORT COLLINS RELATING
TO THE SALE OF TOBACCO PRODUCTS

WHEREAS, there exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and other medical disorders; and

WHEREAS, tobacco use is the largest preventable cause of illness and premature death in the United States and is associated with the unnecessary deaths of over 390,000 Americans annually; and

WHEREAS, nicotine in tobacco has been found to be a powerfully addictive drug, and it is therefore important to prevent young people from using nicotine until they are mature and capable of making an informed and rational decision; and

WHEREAS, every day more than 3,000 minors begin smoking; and

WHEREAS, one-half of smokers begin before the age of 18 and 90 percent begin before the age of 21; and

WHEREAS, the U. S. Department of Health and Human Services estimates that approximately 16 percent of underage smokers use vending machines to purchase their cigarettes; and

WHEREAS, the Council of the City of Fort Collins hereby finds that this Ordinance pertains to and is in furtherance of the health, safety and welfare of the residents of the City of Fort Collins, particularly those residents under eighteen (18) years of age.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Article IV is hereby added to Chapter 12 of the Code of the City of Fort Collins to include Sections 12-75, 12-76 and 12-77 which Sections shall read as follows:

ARTICLE IV. SALE OF TOBACCO PRODUCTS

Sec. 12-75. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Public place shall mean any area or premises open to the public, including, but not limited to, restaurants, retail stores, laundromats, theaters, banks, public conveyances, educational facilities, recreational facilities, hospitals, nursing homes, auditoriums, arenas, malls, meeting rooms, bars, taverns, hotels,

motels, grocery stores, convenience stores, gas stations, department stores and office buildings.

Tobacco products shall mean any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, smokeless tobacco and dipping tobacco.

Vending machine shall mean any mechanical, electrical or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses products.

Sec. 12-76. Sale of Tobacco Products.

(a) No person shall sell, offer for sale, distribute, dispense or give away tobacco products in a public place by or from a vending machine.

(b) No person shall permit a vending machine that dispenses tobacco products to be located, installed, kept or maintained in any public place owned or leased by such person.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this Section, tobacco products may be sold through a vending machine located in a public place where access by persons under eighteen (18) years of age is prohibited or through a vending machine located in a public place where the vending machine is under the direct supervision of the owner of the establishment or of an adult employee of the owner. "Under the direct supervision" shall mean that the vending machine is in the plain view of the owner of the establishment or of the owner's adult employee at all times during which the public has access to the vending machine.

(d) If a person is permitted under paragraph (c) of this Section to dispense tobacco products from a vending machine in a public place because the vending machine is under the direct supervision of the owner of the establishment or of an adult employee of the owner, it shall be unlawful for such person to dispense any products other than tobacco products from such a vending machine.

Sec. 12-77. Violations and penalties.

Each day that a person violates any provision of Section 12-76 shall be considered as a separate and distinct violation. Any person who violates any provision of Section 12-76, upon conviction, shall be subject to the penalties in Section 1-15 of this Code.

Introduced, considered favorably on first reading, and ordered published this 19th day of March A.D. 1991, and to be presented for final passage on the 16th day of April A.D. 1991.

Susan Kirkpatrick
Mayor

ATTEST:

Handa H. Hajcak
City Clerk

Passed and adopted on final reading this 16th day of April, A.D. 1991.

Susan Kirkpatrick
Mayor

ATTEST:

Handa H. Hajcak
City Clerk