

ORDINANCE NO. 44-2018

To Amend Various Sections of Chapter 765  
“Tobacco Sales” of the Codified Ordinances of the  
City of Worthington.

WHEREAS, earlier this year City Council adopted Ordinance 24-2018 which enacted new Chapter 765 “Tobacco Sales” of the Codified Ordinances regarding the sale of tobacco to individuals under the age of twenty-one; and,

WHEREAS, the Columbus Board of Health, pursuant to contract with the City of Worthington, administers the licensing and civil enforcement provisions of Chapter 765; and,

WHEREAS, the Columbus Board of Health has requested certain amendments of Chapter 765 so that it will be consistent with the current provisions of the Columbus City Health Code;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 765.01 “Definitions” is hereby amended to read as follows:

765.01 DEFINITIONS

As used in this chapter:

(A) “Department” means the Columbus City Health Department and its authorized employees and agents.

(B) “Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e- pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(C) “Licensee” means a person that applied for and was issued a retail tobacco and paraphernalia sales license or temporary retail tobacco product and paraphernalia sales license.

## ORDINANCE NO. 44-2018

(D) “Product Paraphernalia” means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of nicotine to include, but not limited to pipes, and rolling papers.

(E) “Retail Paraphernalia Sales” means the act of giving, selling or otherwise distributing product paraphernalia in a retail setting, including but not limited to, gas stations, convenience stores, carry out markets, groceries, supermarkets, retail warehouse clubs, drug stores, vape shops and hookah bars.

(F) “Retail Tobacco Sales” means the act of giving, selling or otherwise distributing tobacco products in a retail setting, including but not limited to gas stations, convenience stores, carry out markets, groceries, supermarkets, drug stores, vape shops and hookah bars.

(G) “Temporary Retail Tobacco Product and Paraphernalia Sales” means the act of giving, selling or otherwise distributing tobacco products and/or product paraphernalia at an event for not more than thirty consecutive days.

(H) “Tobacco Product” means any product that is made from or derived from tobacco, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The term also includes, but is not limited to, an electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(I) "Underage Buy Attempt" means a person, authorized by the Department, under the age of 21, who requests purchase of tobacco products or product paraphernalia from a retailer or a person under age 30 who requests purchase of tobacco products or product paraphernalia from a retailer without presenting identification.

SECTION 2. That Section 765.02 “License Application” is hereby amended to read as follows:

### 765.02 LICENSE APPLICATION

(A) All retailers of tobacco products and/or product paraphernalia shall apply for a valid retail tobacco and paraphernalia sales license or a temporary retail tobacco and paraphernalia sales license. For the purposes of this Chapter, retailers shall include any person performing retail tobacco sales, retail paraphernalia sales, or temporary retail tobacco and paraphernalia sales. Retail tobacco and paraphernalia sales licenses shall be

## ORDINANCE NO. 44-2018

issued by the department annually. Temporary retail tobacco and paraphernalia sales licenses shall be valid for not longer than thirty consecutive days. A license shall be required for each location where retail tobacco sales or retail paraphernalia sales are conducted and is non-transferable.

(B) Any retailer applying for a retail tobacco and paraphernalia sales license or temporary retail tobacco and paraphernalia sales license shall submit a current and valid vendor's license as required by the Ohio Department of Taxation to the Department. Any retailer who distributes, stores, or sells cigarettes shall submit a current and valid Retail Cigarette Dealer's License as required by Ohio Revised Code Chapter 5743 to the Department prior to approval for licensing.

(C) The annual retail tobacco and paraphernalia sales license fee shall be \$150. The license shall be valid beginning on the first day of October through the last day of September of the following year. A license issued to a new licensee after the first day of July and before the first day of October shall not expire until the last day of September of the following year. A penalty equal to twenty-five percent of the applicable license fee shall be assessed by the Department for license fee payments that are not received or postmarked by the first of October.

(D) The temporary retail tobacco and paraphernalia sales license fee shall be \$50. The license shall be valid for no longer than thirty consecutive days and limited to a single event. The application shall be made at least ten days prior to the event.

(E) License fees are due at the time of application and are not refundable.

SECTION 3. That Section 765.03 "License Application Denial, Renewal Denial, Suspension, and Revocation" is hereby amended to read as follows:

### 765.03 LICENSE APPLICATION DENIAL, RENEWAL DENIAL, SUSPENSION, AND REVOCATION

(A) Applications for retail tobacco and paraphernalia sales licenses and temporary tobacco and paraphernalia sales licenses may be denied, and such licenses may be suspended or revoked for any of the following:

- (1) Observation by the Department or its authorized agent that the licensee or any agent, employee, or representative of said licensee has violated Section 765.07(A)(1) or (A)(3) of the Codified Ordinances.
- (2) Failure by the licensee to post signage as required by Section 765.04 of the Codified Ordinances.

ORDINANCE NO. 44-2018

- (3) The applicant or licensee having a conviction for violating Sections 765.06 or 765.07 of the Codified Ordinances or Sections 2329.13 or 2329.14 of the Columbus City Code. In the case of licensees, convictions for violations of Sections 765.06 or Section 765.07 of the Codified Ordinances or Section 2329.13 or 2329.14 of the Columbus City Code shall be a sufficient basis for denying a license renewal, for license suspension, or license revocation if the date of conviction is within two years of the issuance of the current retail tobacco and paraphernalia sales license or temporary retail tobacco and paraphernalia sales license.
- (4) An order by a court of competent jurisdiction that a retail tobacco and paraphernalia sales location or temporary retail tobacco and paraphernalia sales location owned and/or operated by the licensee constitutes a public nuisance.
- (5) Information contained in the application is misleading, inaccurate, or false.
- (6) The licensee fails to comply with applicable federal, Ohio, and city codes including, but not limited to, building, health and fire.
- (7) The licensee has outstanding fines, pursuant to Section 765.05(B) of the Codified Ordinances.

(B) Any person whose retail tobacco and paraphernalia sales license or temporary retail tobacco and paraphernalia sales license has been proposed to be suspended or revoked shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.10.

(C) Any person whose application for a retail tobacco and paraphernalia sales license or temporary retail tobacco and paraphernalia sales license is denied shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.08.

SECTION 4. That Section 765.04 “Sign Distribution and Posting” is hereby amended to read as follows:

**765.04 SIGN DISTRIBUTION AND POSTING**

(A) The Department shall make signs available to all retail tobacco and paraphernalia sales licensees and temporary retail tobacco and paraphernalia sales licensees. Signs shall be provided by the Department at the time of license approval or renewal, and upon request.

ORDINANCE NO. 44-2018

(B) The licensee shall post the signs provided by the department at the point of transaction, which may include but are not limited to, cash registers, sales counters or on any display cases of tobacco products and tobacco product paraphernalia. Signage shall be prominently displayed and not obscured.

SECTION 5. That Section 765.05 “Civil Enforcement” is hereby amended to read as follows:

765.05 CIVIL ENFORCEMENT

(A) The Department shall conduct an inspection, which shall include an underage buy attempt, at least once per licensing period for all licenses.

(B) The Department shall conduct an inspection at least once during the event for all temporary retail tobacco and paraphernalia sales licenses.

(C) If the Department observes violation(s) of this Chapter at a retail tobacco and paraphernalia sales location or at a temporary retail tobacco and paraphernalia sales location, the following schedule of civil penalties shall be imposed on the licensee, in addition to the sanctions specified in Section 765.03(A):

- (1) For a first violation, \$500.00.
- (2) Second and additional violations within two years of the first violation, \$1,000 per violation.
- (3) Violations of this Chapter which occur more than two years after a prior violation shall not be considered a second or additional violation of this Chapter if there has been no violation during the intervening time period.
- (4) Licensees have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.

(D) The Department of Public Safety, Division of Police, retains full authority to enforce Sections 765.06 and 765.07 of the Codified Ordinances.

ORDINANCE NO. 44-2018

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed September 17, 2018

/s/ Bonnie D. Michael  
President of Council

Attest:

/s/ D. Kay Thress  
Clerk of Council

Introduced September 4, 2018  
P.H. September 17, 2018  
Effective October 10, 2018