

ORDINANCE NO. 3608-22

AN ORDINANCE TO AMEND CHAPTER 116A OF THE RUTHERFORD BOROUGH CODE ENTITLED "TOBACCO PRODUCTS"

WHEREAS, the Mayor and Council recognize the significant health risk posed by the use of tobacco and nicotine delivery products; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the Borough of Rutherford and the health of its residents to regulate the sale of tobacco or nicotine delivery products.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the Borough of Rutherford, County of Bergen, State of New Jersey,

SECTION 1. Chapter 116A-3 of the Borough Code, entitled 'Retail sale of tobacco products' is hereby amended to add the subsection D as follows:

§ 116A-3 Retail sale of tobacco products.

- A. No person shall sell tobacco or nicotine delivery products in the Borough of Rutherford unless an employee of the establishment controls the sale of such products. A person may only sell tobacco or nicotine delivery products in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays and vending machines of tobacco or nicotine delivery products shall be prohibited.
- B. No person shall sell, distribute, or give tobacco or nicotine delivery products to any person under the age of 21 years.
- C. Tobacco retailers shall conspicuously post and reasonably maintain signs having a minimum size of six inches by eight inches where tobacco or nicotine delivery products are displayed and at all checkout counters notifying customers that proof of age is required to purchase tobacco or nicotine delivery products.
- D. Any person selling tobacco or nicotine delivery products shall verify by means of government-issued photographic identification containing the bearer's date of birth that no person purchasing the tobacco- or nicotine-containing products is younger than 21 years of age. No such verification is required for any person over the age of 26. No clerk shall sell tobacco or nicotine delivery products to a person less than 21 years of age who has a note or any form of communication from any person, including an adult.
- E. No person or tobacco retailer selling tobacco or nicotine delivery products shall allow an employee to sell or distribute such products until the employee has read the provisions of this chapter and state laws pertaining to the sale or distribution of tobacco and nicotine delivery products and has signed a statement that the employee has read such ordinances and state laws. Such form statement will be supplied by the Health Department and the signed original statement shall be filed with the Health Department and a copy shall be kept on file

by the tobacco retailer for the length of time that the person is employed and made available for review by the Health Department.

F. No person not in operation at the time of the adoption of this section shall sell tobacco or nicotine delivery products within a Drug Free Zone as defined by N.J.S.A. 2C:35-7 and N.J.S.A. 2C:35-7.1.

SECTION 2. Chapter 116A-5 of the Borough Code, entitled ‘Violations and penalties’ is hereby amended to read as follows:

§ 116A-5 Violations and penalties.

A. A person who violates the provisions of this chapter, including any employee of a retail dealer licensee under P.L. 1948 c. 65 (N.J.S.A. 54:40A-1 et seq.) who actually sells or otherwise provides tobacco product to a person under 21 years of age, shall be liable to a civil penalty of not less than \$250 for the first violation, not less than \$500 for the second violation, and not less than \$1,000 for the third and each subsequent violation. Complaint shall be made in the municipal court of Rutherford or before such other judicial officer having authority under the laws of the State of New Jersey.

B. Each sale of tobacco and/or nicotine delivery product ~~to any person under the age of 21~~ **in violation of this Chapter** shall constitute a separate violation.

C. In addition to the penalties set forth in Subsection A above, the Rutherford Board of Health may suspend the retail food establishment license of any person convicted of violation of this chapter, for a period of not more than three days, pursuant to the authority of the Board of Health to license and regulate food establishments as provided by N.J.S.A. 26:3-31(c).

SECTION 3. All ordinances of the Borough of Rutherford, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 5. All other provisions of §116A of the Code of the Borough of Rutherford are not further amended and remain in full force and effect.

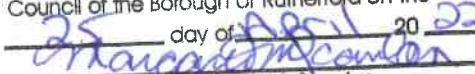
The ordinance shall take effect immediately upon final passage.

ATTEST:

BOROUGH OF RUTHERFORD


Margaret M. Scanlon, Borough Clerk


Frank Nunziato, Mayor

I hereby certify that this is a true and exact copy of an ordinance adopted by the Mayor and Council of the Borough of Rutherford on the 25 day of April, 2022

Margaret M. Scanlon
Borough Clerk