

**ORDINANCE NO. 3614-22**

**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-4 of the Borough Code, entitled 'Enforcement; License required; fees' is hereby amended to add the subsections E-I as follows:

**Enforcement; License required; fees.**

- A. The enforcement authority for this chapter shall be the ~~Rutherford~~ Health Officer **for the Borough of Rutherford or his/her designee and/or the Rutherford Police Department.**
- B. The Health Officer may, after giving proper identification, inspect any matter, thing, premises, place, person, record, vehicle, incident, or event as necessary to execute his or her official duties in a manner prescribed by law.
- C. It shall be unlawful for any person to molest, willfully oppose, verbally abuse or otherwise obstruct the Health Officer in his/her enforcement of this chapter, and the Health Officer may request the assistance of the Rutherford Police Department or other police agency or peace officer when necessary to execute his or her official duties in a manner prescribed by law.
- D. Citizens may bring complaints against violators of this chapter.
- E. **No person shall sell nicotine delivery products in the Borough of Rutherford without first obtaining a license from the Department of Health to do so on the premises.**
- F. **The annual license fee shall be \$900.00, except for those issued in 2022, the fee shall be \$300.00. All licenses shall expire on December, 31 in the year in which it is issued.**
- G. **No license is transferrable by sale or otherwise; a license is valid only for the specific premises and person listed thereon.**
- H. **No itinerant establishments or vendors shall be permitted to obtain a license.**
- I. **No person or retailer selling electronic smoking devices shall allow an employee to sell or distribute such products until the employee has read Chapter 116A Tobacco**

**Products of the Rutherford Board of Health Code and state laws pertaining to the sale or distribution of electronic smoking devices and has signed a statement that the employee has read such Code and state laws. Form statements 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 retailer and made available for review by the Health Officer or designee.**

**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 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).
- D. In addition to the penalties set forth in Subsection A above, the Rutherford Board of Health may suspend or revoke a license to sell nicotine delivery products of any person convicted of more than three (3) violations of this chapter.**

**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 August 31, 2022.

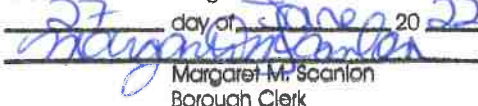
**ATTEST:**

  
Margaret M. Scanlon, Borough Clerk

**BOROUGH OF RUTHERFORD**

  
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

  
day of December, 2022  
Margaret M. Scanlon  
Borough Clerk