

CITY OF ROCKY FORD

Ordinance #956

AN ORDINANCE REPEALING ORDINANCE NO. 901 KNOWN AND CITED AS “THE PROTECTION OF MINORS FROM TOBACCO ACT” AND ENACTING A NEW ORDINANCE TO BE KNOWN AND CITED AS “THE PROTECTION OF PERSONS UNDER TWENTY-ONE YEARS OF AGE FROM TOBACCO ACT”.

WHEREAS, on September 9, 2014, the City of Rocky Ford adopted Ordinance No. 901 known and cited as “The Protection of Minors from Tobacco Act”; and

WHEREAS, the City Council of the City of Rocky Ford finds it in the best interest of the public health, safety and welfare to repeal Ordinance No. 901 and replace it with this Ordinance to be known and cited as “The Protection of Persons Under Twenty-one Years of Age from Tobacco Act”; and

WHEREAS, the City of Rocky Ford recognizes the dangers associated with under-aged access to tobacco products; and

WHEREAS, research shows that most adult smokers began using tobacco products before reaching the legal age at which they could purchase tobacco products; and

WHEREAS, regulating the sale of tobacco products is an appropriate proven deterrent to protect the health, safety and welfare of young people in the City of Rocky Ford; and

WHEREAS, the requirement of retail sellers of tobacco products to comply with the foregoing regulations will not unduly burden legitimate business activities of retailers who sell tobacco products; and

WHEREAS, it is the intent of the City Council in enacting this Ordinance to prohibit the sales of tobacco products to youth; to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those laws that prohibit or discourage the sale or distribution of tobacco products to persons under the age of 21 years; and to reduce the impact of tobacco and nicotine product use by youth in the City of Rocky Ford.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKY FORD, COLORADO, AS FOLLOWS:

1. Ordinance No. 901 known and cited as “The Protection of Minors from Tobacco Act” is hereby repealed in its entirety.
2. That the following Ordinance known and cited as “The Protection of Persons Under Twenty-one Years of Age from Tobacco Act” is hereby enacted:

(A) Definitions. As used in this Ordinance, the following words shall have the following meanings, unless the context clearly requires otherwise:

(1) *“Electronic Smoking Device”* means any device that may be used to deliver any aerosolized or vaporized substance 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 the device and also includes any substance that may be aerosolized or vaporized by such device whether or not the substance contains nicotine. For purposes herein, electronic smoking device(s) does not include drugs, including marijuana, devices, or combination products authorized for sale by the United States Food and Drug Administration as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(2) *Retail tobacco business* means a sole proprietorship, corporation, limited liability company, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail. For purposes of enforcement of this Ordinance, retail tobacco business includes, but is not limited to, a sole proprietorship, corporation, limited liability company or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, limited liability company, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge.

(3) *Self-service display* means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer.

(4) *Tobacco paraphernalia* means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

(5) *Tobacco product* includes (1) any product that contains tobacco or nicotine, or is made or derived from tobacco that is intended or expected to be ingested, smoked, inhaled, placed in oral or nasal cavities, or applied to the skin, or (2) any electronic device that can be used to deliver nicotine or tobacco to the person using the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe. The term “tobacco product” does not include any drugs, devices or combination products authorized for sale by the United States Food and Drug Administration as those terms are defined in the Federal Food Drug and Cosmetic Act.

(B) Minimum Age for Persons Selling and Handling Tobacco Products.

No person in the course of employment who is younger than the minimum age established by the laws of Colorado for the sale of tobacco products shall sell, stock, retrieve or otherwise handle tobacco products.

(C) Positive Identification Required.

No person shall sell or transfer a tobacco product to another person who appears to be under the age of fifty (50) years without first examining the government issued photographic identification of the recipient to confirm that the recipient is at least the minimum legal sales age under the laws of Colorado to purchase tobacco products.

(D) No Persons Under Twenty-One Years Permitted in a Retail Tobacco Business.

(1) No person who is younger than the minimum legal sales age of twenty-one (21) years established by the laws of Colorado shall be admitted to or be on the premises of a retail tobacco business. The presence of an under-aged person on the premises of a retail tobacco business shall result in a violation of this Ordinance.

(2) The owner of a retail tobacco business shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's office which shall read as follows:

WARNING: It is illegal for any person under 21 years of age to be admitted to or be on the premises of this business, and upon conviction, a fine may be imposed.

(E) Possession of Tobacco Products and/or Paraphernalia by a Person Younger than the Minimum Legal Sales Age Established by Colorado Laws is Prohibited.

No person who is younger than the minimum legal sales age established by the laws of Colorado for the purchase of tobacco products shall possess tobacco products or tobacco paraphernalia. It is not the intent of the City of Rocky Ford, its employees/agents, or Law Enforcement to penalize youth for possession of tobacco products and/or tobacco paraphernalia. The intent of this provision is to provide education on the harmful effects of tobacco to the person who is younger than the minimum age established by the laws of Colorado and confiscate tobacco products and/or tobacco paraphernalia.

(F) Prohibition of Sale of Tobacco Products by a Self-Service Display.

The sale of tobacco products through the use of a self-service display is prohibited.

(G) Penalty for Violations.

(1) Any retail establishment or adult found to be in violation of any provision of this Ordinance shall be subject to a fine of up to \$300.

(2) Any person who is younger than the minimum age established by the laws of Colorado found to be in violation of any provision of this Ordinance shall not be subject to a penalty or fine.

(H) Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held or determined to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have adopted each section, subsection, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

(I) That all former City ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

BE IT FURTHER ORDAINED by the City Council that this Ordinance shall take effect 30 days after publication following adoption.


INTRODUCED, READ, AND PASSED ON FIRST READING at a regular meeting of the City Council on the 9 day of December, 2020, and ordered published in full in the Rocky Ford Daily Gazette.

ATTEST:

CITY OF ROCKY FORD



City Clerk



Mayor

ADOPTED AND PASSED ON SECOND AND FINAL READING at a regular meeting of the City Council on the 12 day of January, 20 21, and ordered published by title only in the Rocky Ford Daily Gazette.

ATTEST:

CITY OF ROCKY FORD



City Clerk





Mayor