

ORDINANCE NO. 2245

INTRODUCED BY: DAVIS, DOUGLAS, FORD, FRANK, GUARDIOLA, HURST,
HUSEMAN, MADERA, TETER

AN ORDINANCE AMENDING SECTION 12-7000 OF THE COMMERCE CITY REVISED MUNICIPAL CODE RELATING TO THE REGULATION OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS

WHEREAS, the City of Commerce City (“City”) currently regulates the sale, purchase, consumption, and possession of tobacco through Section 12-7000 of the Commerce City Revised Municipal;

WHEREAS, smoking and the consumption of products containing tobacco or nicotine remain one of the biggest public health problems in the United States and, according to a 2109 report from the Center for Disease Control, Each day, 1,300 people die from health problems related to tobacco or nicotine use. If smoking continues at the current rate among U.S. youth, 5.6 million of today’s Americans younger than 18 years of age are expected to die prematurely from a smoking-related illness. This represents about one in every 13 Americans who are 17 or younger.” Further, smoking causes chronic illnesses including “cancer, heart disease, stroke, lung diseases, diabetes, and chronic obstructive pulmonary disease;”

WHEREAS, youth use of e-cigarettes and vaping or similar products has increased dramatically in recent years, according to the National Institute on Drug Abuse, National Institutes of Health. The Center for Disease Control reports that 99% of the e-cigarettes sold in the United States contained nicotine and other ingredients and that the e- aerosol could cause long-term damage to lungs. The US Department of Health and Human Services reports about 37% of 12th graders reported vaping in 2018, compared with 28% in 2017;

WHEREAS, the City Council desires to expand the scope of its regulations to establish a required age for the sale, purchase, consumption, and possession of all products containing tobacco or nicotine, including cigarettes and e-cigarettes and whether ingested, inhaled, or applied, and devices that could be used to deliver tobacco or nicotine, using a definition provide by state law;

WHEREAS, this ordinance is enacted to safeguard the lives the residents of Commerce City and the general public pursuant to Commerce City’s home rule authority under Article XX, § 6 of the Constitution of the State of Colorado and pursuant to the Commerce City’s police powers;

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

SECTION 1. The recitals to this ordinance are hereby adopted by and incorporated as findings of fact of the City Council.

SECTION 2. Section 12-700 of the Commerce City Revised Municipal Code (currently titled, “Tobacco”) is hereby amended as set forth in Exhibit A, attached and incorporated by reference.

SECTION 3. The passage of this ordinance is necessary for the preservation of the public health, safety, welfare, and economic well-being of Commerce City for the reasons set forth in this ordinance.

SECTION 4. Except as specifically set forth herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS 7TH DAY OF OCTOBER 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS 4TH DAY OF NOVEMBER 2019.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST

Laura J. Bauer, MMC, City Clerk

Exhibit A to Ordinance 2245

(Additions are blue italicized text; deletions are red strikethrough text.)

Sec. 12-7000. – Tobacco products and devices.

- (a) *Tobacco products defined.* The term "tobacco product" shall mean any cigarette, tobacco product, or nicotine product as defined in C.R.S. § 18-13-121(5)(a), as may be amended and interpreted by courts having jurisdiction over the city.
- (b) *Furnishing prohibited.* No person shall give, sell, distribute, or offer to sell any tobacco product to a minor. It shall be an affirmative defense that the person furnishing the tobacco product was presented with and reasonably relied upon a document that identified the individual receiving the tobacco product as being eighteen years of age or older.
- (c) *Purchase prohibited.* Except at the direction of a government agent who is acting within his or her authority, it shall be unlawful for any minor to purchase or attempt to purchase any tobacco product.
- (d) *Possession prohibited.* No minor shall have or hold any amount of tobacco product anywhere on his or her person, own or have custody of a tobacco product, or have a tobacco product within his or her immediate presence and control.
- (e) *Consumption prohibited.* No minor shall to smoke, ingest, absorb, inhale or chew any tobacco product.

END