

ORDINANCE No 2022-08-18

AN ORDINANCE OF THE CITY OF SPENCER, OKLAHOMA, A MUNICIPAL CORPORATION, ADDING ARTICLE XXI "RESTRICTIONS ON TOBACCO/E-CIGARETTE RETAILERS"; PROVIDING FOR SEVERABILITY; PROVIDING FO GRANDFATHER CLAUSE; PROVIDING A REPEALER; PROVIDING FOR AN EMERGENCY.

WHEREAS, by majority vote of the City Council at the Regular Meeting on the 18 day of August, 2022, it was deemed to be necessary to amend Chapter 44 of the City Spencer Zoning, Planning and Development Code to provide for the addition of Article XXI Section 44-900-44-901 to Chapter 44 Restrictions on Tobacco/e-cigarette Retailers.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE SPENCER, OKLAHOMA, MEETING IN REGULAR SESSION OF CITY HALL, SPENCER, OKLAHOMA ON THIS 18 DAY OF AUGUST, 2022 FOLLOWS:

SECTION 1. ARTICLE XXI is added to the City of Spencer Code as follows:

ARTICLE XXI . Restrictions on Tobacco/e-cigarette Retailers.

SECTION 44-900: DEFINITIONS

a. School: means any property, building, permanent structure, facility, auditorium, stadium, arena or recreational facility owned, leased or under the control of a public school district or private school or any educational facility that is accredited by the state of Oklahoma.

School includes all licensed childcare facilities, kindergartens, elementary schools, which may include either K-6 or K-8, and all secondary schools

School includes any institution within the Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body.

b. Playgrounds: means any area used for outdoor play or recreation, especially by children, and often containing recreational equipment such as slides and swings.

c. Tobacco product: means any product that is made from or derived from tobacco, or that contains nicotine, that 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. "Tobacco product" also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and 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.

d. 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. 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.

Section 44-901. PROHIBITED LOCATIONS:

No business license by Spencer, Oklahoma shall be located or operated at any place except at locations permitted by the town's zoning or planning laws. The location of a tobacco/e-cigarette store is specifically prohibited within three hundred feet (300') of any playground, school, or other facility when the facility is being used primarily by persons under twenty-one (21) years of age. The distance shall be measured as the shortest straight line distance from the property line of the proposed tobacco/e-cigarette store to the property line of the entities listed below:

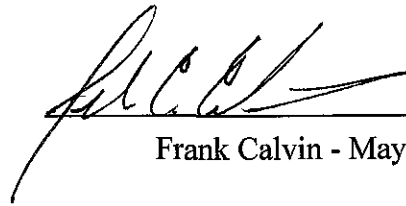
- a) Public or private School
- b) Playgrounds
- c) Facility used primarily by persons under twenty-one years of age

SECTION II: SEVERABILITY CLAUSE. If any section, part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION III: GRANDFATHER CLAUSE. Current license tobacco/e-cigarette store within 300 feet of any school are exempt from the amendment to the zoning ordinance. If current license tobacco/e-cigarette store is sold then the new owner would no longer be able to use the grandfathering clause to obtain a license

SECTION IV: Section 4. Emergency. It being immediately necessary for the preservation of the public health, peace and safety of the City of Spencer and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.


PASSED AND APPROVED this ____ day of August, 2022.


Frank Calvin - Mayor

ATTEST:


Cecilia Taft - City Clerk

APPROVED AS TO FORM THIS 18 DAY OF AUGUST, 2022.


Raymond A. Vincent