

**BOROUGH OF WESTWOOD
BOARD OF HEALTH
NOTICE**

NOTICE IS HEREBY GIVEN that the following proposed Ordinance was introduced and passed on first reading at a meeting of the Board of Health of the Borough of Westwood in the County of Bergen, New Jersey held on the 8th day of July, 2015 and that said Ordinance will be further considered on second and final reading at a meeting thereof to be held on August 12, 2015 at 7:30 PM, or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning the same.

ORDINANCE 15-02

AN ORDINANCE PROHIBITING THE SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE (21).

Be it ordained by the Board of Health of the Borough of Westwood in the County of Bergen.

SECTION 1. Purpose

The purpose of this Ordinance is to prohibit the sale of tobacco to minors. The Board of Health recognizes the dangers and health risks associated with teenagers and young persons who start smoking, as set forth in various studies conducted by the United States Department of Health, the American Cancer Society and surveys conducted by other entities. The Board of Health has concluded that it is appropriate to prohibit the sale of tobacco and nicotine delivery products within the Borough of Westwood to persons under the age of twenty-one (21).

SECTION 2. Retail Sale of Tobacco Products

A. No person shall sell tobacco or nicotine delivery products in the Borough of Westwood 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 check-out 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 Westwood Board of Health Ordinances 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 and made available for review by the Board of Health.

SECTION 3. Definitions

“Board of Health” shall mean the Westwood Board of Health.

“Health Officer” shall mean the Westwood Health Officer and/or his or her authorized representative.

“Nicotine Delivery Product” shall mean any product that is designed to deliver nicotine or vapor, including, but not limited to, what are commonly known as “e-cigarettes” or other types of electronic smoking devices, or any cartridge or other component of such device, or related products including but not limited to any substances used in such devices, such as liquids or powders or other forms of tobacco, but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

“Person” shall mean an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Tobacco” shall mean any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use including cigars, chewing tobacco, pipe tobacco, snuff, and cigarettes in any form.

“Tobacco Retailer” shall mean any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco or nicotine delivery products are made to purchasers for consumption or use. The term shall also mean any person or entity that owns, operates or uses a tobacco vending machine and/or a tobacco vending machine location as defined herein.

“Tobacco Vending Machine” shall mean any automated, self-service device which, upon insertion of money, tokens, or other form of payment, dispenses nicotine delivery products, cigarettes, or other tobacco products.

“Tobacco Vending Machine Location” shall mean the room, enclosure, space or area where a tobacco vending machine is installed and operated.

SECTION 4. Enforcement.

- The enforcement authority for this ordinance shall be the Westwood Health Officer or his/her designee.
- The Health Officer may, after giving proper identification, inspect any matter, thing, premise, place, person, record, vehicle, incident, or event as necessary to execute his or her official duties in a manner prescribed by law.
- 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 Ordinance, and the Health Officer may request the assistance of the Westwood Police Department or other police agency or peace officer when necessary to execute his or her official duties in a manner prescribed by law.
- Citizens may bring complaints against violators of this ordinance.

SECTION 5. Violations and Penalties

- A person who violates the provisions of this Ordinance, including any employee of a retail dealer licensee under P.L. 1948, c.65 (C.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 \$500.00 for the first violation, not less than \$1,000.00 for the second violation, and not less than \$2,000.00 for the third and each subsequent violation. Complaint shall be made in the municipal court of the Borough of Westwood or before such other judicial officer having authority under the laws of the State of New Jersey.
- Each sale of tobacco and or nicotine delivery product to any person under the age of 21 shall constitute a separate violation.
- In addition to the penalties set forth in subsection 5.A above, the Westwood Board of Health may suspend the Retail Food Establishment License of any person convicted of violation of this Ordinance, for a period of not more than 3 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 6. Severability

If any section or provision of this Ordinance be adjudged invalid or unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the same shall not affect the validity of the ordinance as a whole or any other section or provision hereof.

SECTION 7. Repealer

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

SECTION 8. Effective Date

This Ordinance shall take effect after publication at the time and in the manner directed

by law and upon the Governing Body repealing Chapter 353 herewith simultaneously.

Approved:

Betsy Beckman

Westwood Board of Health

President

Attest:

Sharon Blehl,

Secretary