

BOROUGH OF BERGENFIELD

PUBLIC NOTICE

ORDINANCE NO. 15-2479 – AN ORDINANCE ENTITLED “PROHIBITION OF SALE OF TOBACCO TO PERSONS UNDER THE AGE OF 21” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BERGENFIELD

was introduced at a work session meeting of the Mayor and Council of the Borough of Bergenfield, in the County of Bergen, New Jersey, held on Tuesday, July 7, 2015, and will be further considered for final passage after public hearing at a regular meeting of the Mayor and Council to be held in the Council Chambers, Bergenfield Municipal Center, 198 North Washington Avenue, Bergenfield, New Jersey on Tuesday, July 21, 2015 at 8:00 P.M. prevailing time, or as soon thereafter as the matter can be heard.

A clear and concise statement of this ordinance is to prohibit the sale of tobacco to persons under 21 unless on active duty with the military, as set forth in the ordinance

A copy of this ordinance may be obtained without cost between the hours of 8:30 a.m. and 4:30 p.m. at the office of the Borough Clerk, 198 North Washington Avenue, Bergenfield, New Jersey.

Anne Dodd, RMC
Borough Clerk

BOROUGH OF BERGENFIELD

ORDINANCE 15-2479 – AN ORDINANCE ENTITLED “PROHIBITION OF SALE OF TOBACCO TO PERSONS UNDER THE AGE OF 21” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BERGENFIELD.

BE IT ORDAINED, by the Mayor and Council of the Borough of Bergenfield, County of Bergen and State of New Jersey as follows:

WHEREAS, The Borough of Bergenfield desires to adopt an Ordinance to prohibit the sale of tobacco to persons under the age of 21 as follows:

Section 1. Retail Sale of Tobacco Products.

A. No person shall sell tobacco in the Borough of Bergenfield unless an employee of the establishment controls the sale of such products. A person may only sell tobacco in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays and vending machines of tobacco shall be prohibited.

B. No person shall sell, distribute or give tobacco to any person under the age of 21 unless on active duty with the military.

C. Tobacco retailers shall conspicuously post and reasonably maintain signs having a minimum size of six inches by eight inches where tobacco is displayed and at all check-out counters notifying customers that proof of age is required to purchase tobacco.

D. Any person selling tobacco shall verify by means of government-issued photographic identification containing the bearer's date of birth that no person purchasing the tobacco is younger than 21 years of age. No such verification is required for any person over the age of 21. No clerk shall sell tobacco to a person less than 21 years of age who has a note or any form of communication from any person including an adult unless on active duty with the military.

E. No person or tobacco retailer selling tobacco shall allow an employee to sell or distribute such products until the employee has read the Borough of Bergenfield's Ordinances and State laws pertaining to the sale or distribution of tobacco and has signed a statement that the employee has read such ordinances and State laws. Such form statement will be supplied by the Borough and a 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 Health Department.

Section 2. Definitions.

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 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 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 3. Enforcement.

A. The enforcement authority for this ordinance shall be the Bergenfield Health Officer or his/her designee.

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 enforcement of this ordinance, and the Health Officer may request the assistance of the Bergenfield 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 ordinance.

Section 4. Penalties.

A. 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 products 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 Bergenfield or before such other judicial officer having authority under the laws of the State of New Jersey.

B. Each sale of tobacco to any person under the age of 21 shall constitute a separate violation.

C. In addition to the penalties set forth in subsection 3A above, the Bergenfield 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).

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.

Severability All provisions of this Ordinance are severable. If for any reason, any provision of this Ordinance is held to be invalid, the validity of the remainder of the Ordinance shall not be affected.

Effective Date. This Ordinance shall become effective upon final approval and publication, pursuant to law, and upon completion of all outstanding cases.