

Ordinance 0001-23 – Cigarette and Tobacco Products Retailers

An ordinance to amend Article IX, Chapter 22 of the Municipal Code of the City of Racine, Wisconsin.

Part 1: To delete and recreate Chapter 22, Article IX, Section 22-291 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Sec. 22-291. Statutory provisions adopted.

The provisions of Wis. Stat. §§ 134.65 and 134.66 relating to licenses for cigarette and tobacco products and Wis. Stat. §§ 139.30 through 139.86 relating to cigarette and tobacco taxes are adopted as a portion of this article as far as may be applicable to the city. A violation of any such provisions shall constitute a violation of this article.

State law reference(s)—Cigarette and tobacco products retailer license, Wis. Stat. § 134.65; Cigarette taxes, Wis. Stat. §§ 139.30, et al.; Tobacco products tax, Wis. Stat. §§ 139.75, et al.

Part 2: To delete and recreate Chapter 22, Article IX, Section 22-292 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Sec. 22-292. License – Required.

No person shall, in any manner, or upon any pretense, or by any device, directly or indirectly, sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as provided in this article, or any other violations pursuant to Wis. Stats. §§ 139.30—139.46 or 139.75—139.86, without first obtaining a license from the city clerk.

Part 3: To delete and recreate Chapter 22, Article IX, Section 22-293 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Sec. 22-293. Same—Application; term.

- a) Application for a license or renewal of a license under this article shall contain truthful information and be made to the city clerk. Licenses issued under this article shall include the name of the licensee, shall specifically describe the premises where such business is to be conducted, and shall specify whether the applicant will sell, exchange, barter, dispose of, or give away the products over the counter or in a vending machine, or both. Licenses shall expire on June 30 of each year, unless sooner revoked.
- b) A materially false statement or omission on any new or renewal license application under this article shall constitute grounds for denial, denial of renewal, suspension or revocation of a license.

Part 4: To delete and recreate Chapter 22, Article IX, Section 22-297 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Sec. 22-297. Penalty for violation of article.

- (a) Upon conviction, any person found to be in violation of this article shall forfeit not less than \$25.00 nor more than \$100.00 for the first offense, and not less than \$25.00 nor more than \$200.00 for the second or subsequent violation within a two year period. If upon such second or subsequent violation the person so violating this article was personally guilty of a failure to exercise due care to prevent violation thereof, such person shall forfeit not less than \$25.00 nor more than \$300.00. Conviction of such second or subsequent violation shall immediately terminate the license of such person convicted and the person shall not be entitled to another license under this article for a period of five years thereafter, nor shall such person during that period act as a servant or agent of a person licensed under this article for the performance of the acts authorized by such license.
- (b) Any person who knowingly provides materially false information in an application for a cigarette and tobacco products retailer license may be required to forfeit not more than \$1,000.00.

Part 5: To delete and recreate Chapter 22, Article IX, Section 22-298 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Sec. 22-298. Suspensions, revocations, denials and denial of renewal applications.

A violation of any provisions of this article, or any causes under section 22-40 of this Code, shall constitute grounds for suspension, revocation, denial or denial of renewal. Prior to the suspension, revocation or denial of renewal of such license, a due process hearing shall be held as required in section 22-41 of this Code.

Part 6: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine and publication or posting as required by law.

Fiscal Note: N/A

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.