

ZOrd. 0001-26 – Tobacco, Cigarette, or Electronic Vaping Vendors

An ordinance to amend Chapter 114, Article I, Section 114-1, Chapter 114, Article V, Section 114-447, and to create Chapter 114, Article V, Section 114-487(b)(30).

WHEREAS, according to the Wisconsin Department of Health Services, nearly all commercial tobacco use begins during a person’s teens and young adulthood. Tobacco contains nicotine, a highly addictive drug that causes many young people to progress from smoking or vaping occasionally to smoking or vaping every day; and

WHEREAS, since 2021, the number of young people using oral nicotine pouches has doubled; and

WHEREAS, nicotine has an especially negative effect on teens’ mental health.

WHEREAS, vapes include very high levels of nicotine, a highly addictive chemical, at levels equal to, or higher than, a pack of conventional cigarettes; Youth and young adults in Wisconsin are heavily marketed to by commercial tobacco companies, with \$859.4 million spent on advertising and promotion of e-cigarettes in the U.S. alone, according to the Federal Trade Commission E-Cigarette Report for 2021. This massive marketing effort has resulted in increased youth e-cigarette use over the last decade. In 2023, 15.7% of Wisconsin high school students used e-cigarettes, or 1 out of 6 teens; and

WHEREAS, prevention is critical. If young people don’t start using commercial tobacco or nicotine by age 26, they will almost certainly never start.

NOW THEREFORE, the Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 114, Article V, Section 114-1 is hereby amended as follows:

Sec. 114-1(b) shall include the following definitions of terms:

Cigarette means any roll of tobacco wrapped in paper or any substance other than tobacco.

Electronic Vaping Device means a device that may be used to deliver any aerosolized or vaporized liquid or other substance for inhalation, regardless of whether the liquid or other substance contains nicotine, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. “Electronic vaping device” includes a component, part, or accessory of the device, and includes a liquid or other substance that may be aerosolized or vaporized by such device, regardless of whether the liquid or other substance contains nicotine. “Electronic vaping device” does not include a battery or battery charger when sold separately. “Electronic vaping 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.

Tobacco, Cigarette, or Electronic Vaping Vendors means any retail business that makes available for sale any Cigarettes, Tobacco Products, or Electronic Vaping Devices as defined in this section.

Tobacco Products means cigars; pipe tobacco; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but “tobacco products” does not include cigarettes.

Part 2: Chapter 114, Article V, Section 114-447 is hereby amended as follows:

Sec. 114-447(b)(36) is repealed and reserved.

Part 3: Chapter 114, Article V, Section 114-487(b)(30) is created as follows:

(30) Tobacco, Cigarette, or Electronic Vaping Vendors subject to the following conditions:

- a. The subject location shall not be located closer than 1,000 feet from another Tobacco, Cigarette, or Electronic Vaping Vendor as defined in Sec. 114-1(b). Said distances are measured from lot line to lot line.
- b. The subject location shall not be located closer than 1,000 feet from any active place of worship, licensed day care center, school, community center, or other facility predominantly attended by individuals under the age set forth in Wis. Stat. § 134.66(2). Said distances are measured from lot line to lot line.

Part 4: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: No change.

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 five 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.