

TOWNSHIP OF FAIRFIELD
ORDINANCE NO. 96-02
PERMIT APPLICATION
CIGARETTE VENDING MACHINE(S)

1. NAME OF OWNER
.....
2. NAME OF LESSEE (if any)
.....
3. ADDRESS OF PREMISES WHERE MACHINE(S) IS LOCATED
.....
4. LOCATION WITHIN SAID PREMISES WHERE MACHINE(S) WILL BE PLACED
.....
5. SERIAL NUMBER OF THE MACHINE(S)
.....
6. CERTIFICATION THAT OPERATION OF THE MACHINE IS POSSIBLE ONLY BY THE ACTIVATION OF AN ELECTRONIC SWITCH OR OTHER DEVICE WHICH SHALL BE CONTROLLED ONLY BY THE TOBACCO RETAILER OR THEIR DESIGNATED ADULT EMPLOYEE AND THAT THE MACHINE SHALL BE UNDER THE VISUAL SUPERVISION OF THE TOBACCO RETAILER OF THEIR DESIGNATED ADULT EMPLOYEE.
.....
7. FEE \$100.00 PER YEAR FOR EACH MACHINE(S)
.....
8. ISSUANCE DATE
.....
9. VIOLATIONS AND PENALTIES
ANY PERSON, FIRM OR CORPORATION WHO VIOLATES ANY PROVISION OF THIS CHAPTER SHALL, UPON CONVICTION THEREOF, BE PUNISHED BY A FINE NOT LESS THAN ONE HUNDRED DOLLARS (\$100.00) NOR EXCEEDING FIVE HUNDRED DOLLARS (\$500.00) OR BY IMPRISONMENT FOR A TERM NOT EXCEEDING THIRTY (30) DAYS, OR BOTH. A SEPARATE AND DISTINCT OFFENSE SHALL BE DEEMED COMMITTED ON EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES.
.....

Introduced January 22, 1996
Adopted February 26, 1996

TOWNSHIP OF FAIRFIELD
ORDINANCE NO. 96-02

AN ORDINANCE TO RESCIND ORDINANCE 95-12
OF THE CODE OF THE TOWNSHIP OF FAIRFIELD
ENTITLED "CIGARETTE VENDING MACHINES PROHIBITED"
AND PROVIDE FOR THE REGULATION OF CIGARETTE VENDING MACHINES

WHEREAS, the Surgeon General of the United States has called for a ban on the sale of cigarettes by vending machines, and

WHEREAS, the State of New Jersey has banned the sale or furnishing of cigarettes or tobacco in any form to minors under N.J.S.A. 2A:170-51; and

WHEREAS, Fairfield Township is unable to prevent the sale of cigarettes to minors by automatic vending machines and no penalty has been imposed by State Statute upon minors for the purchase of cigarettes, and

WHEREAS, Fairfield Township is authorized to enact ordinances not contrary to the laws of this State or of the United States as it may deem necessary and proper for the protection of persons and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Fairfield, Essex County, State of New Jersey, as follows:

1. Ordinance 95-12 of the Code of the Township of Fairfield entitled "Cigarette Vending Machines Prohibited" be and is hereby repealed.

2. The Code of the Township of Fairfield, is hereby supplemented to add Chapter entitled "Cigarette Vending Machines", as follows:

Section 1. . Purpose.

The purpose of this Chapter is to serve in the prevention of the sale of cigarettes to minors as prohibited by N.J.S.A. 2A: 170-51. It has been recognized that minors continue to purchase and use tobacco products from both retail over-the-counter sales and from automatic cigarette vending machines. Therefore, a substantial and legitimate public purpose exists for the Township of Fairfield to act in the interests of and in the promotion and protection of the health, safety and welfare of its inhabitants, especially minors, by prohibiting the accessibility of tobacco products to minors.

Section 2. Regulation of cigarette vending machines.

It shall be unlawful for any person or entity, that operates any location within the Township of Fairfield where sales of tobacco products are made, to offer for sale or to sell any tobacco product through a vending machine except where the operation of said machine is possible only by the activation of an electronic switch or other device, which is controlled by the tobacco retailer or his designated adult employee, and only after the tobacco retailer or his adult employee has made reasonable determination that the patron wishing to use the tobacco vending machine is eighteen (18) years of age or older. In addition, all cigarette vending machines shall be under the visual supervision of the tobacco retailer and/or their adult employee, so that purchases from the machine are readily observable by the retailer or his or her adult employee.

Section 3. Permits

No cigarette vending machine shall be placed on any premises, public or private, within the Township unless the owner or lessee of such a machine provides in writing and on a yearly basis, to the Township for each individual cigarette vending machine: (1) the name of the owner; (2) the name of the lessee (if any); (3) the address of the premises where the machine will be located; (4) the location within said premises where the machine will be placed; (5) the serial number of the machine; (6) certification that operation of the machine is possible only by the activation of an electronic switch or other device which shall be controlled only by the tobacco retailer or their designated adult employee and that the machine shall be under the visual supervision of the tobacco retail or their designated adult employee, and provided that payment of a one hundred dollar (\$100.00) per year permit fee shall be paid to the Township for each such machine. Upon compliance with the provisions of this section, a permit for the machine shall be issued by the Municipal Clerk. Said permit shall be valid for a period of one year from the date of issuance.

Section 4. Tampering with machines or devices

It shall be unlawful for any tobacco retailer responsible for the operation of a tobacco vending machine to remove, disconnect or otherwise disable or permit another person to remove, disconnect or otherwise disable the remotely activated electronic switch or device on a tobacco vending machine, at any location within the Township of Fairfield.

Section 5. Seizure of unauthorized tobacco vending machines.

A tobacco vending machine, which is not permitted under this ordinance may be seized, forfeited and disposed of in the same manner as other unlawful property seized under N.J.S. 2C:64-1 at sec. Any machine so seized shall be returned to its owner upon payment of the reasonable costs incurred in connection with

seizure, together with any and all fines imposed by the Municipal Court.

Section 6. Enforcement.

The Health Officer or his designee, or any other person charged with enforcement of this Chapter, after giving proper identification, may inspect any matter, thing, premises or place as may be necessary for the proper enforcement hereof. It shall be unlawful for any person to oppose or otherwise obstruct a Health Officer, or his or her designee, in the performance of duties hereunder, and he or she may request the assistance of a law enforcement agency or peace officer when necessary to execute his or her official duty in a manner prescribed by law.

Section 7. Violations and penalties.

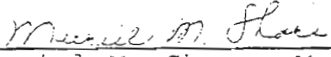
Any person, firm or corporation who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not less than one hundred dollars (\$100.00) nor exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding thirty (30) days, or both. A separate and distinct offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 8. Severability of sections.


If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

3. All other ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

4. This Ordinance shall take effect immediately upon passage and publication in accordance with law.


Muriel M. Shore, Mayor

ATTEST:


Joseph Catenaro, Municipal Clerk

NOTICE

"NOTICE is hereby given that the foregoing Ordinance was introduced and passed upon First Reading at a Meeting of the Mayor and Council of the Township of Fairfield on January 22, 1996. Said Ordinance shall have a Second Reading and Public Hearing and be considered for final adoption at a Meeting of said Governing Body to be held on February 26, 1996 starting at 7:00 p.m. in the Township Municipal Building, 230 Fairfield Road, Fairfield, New Jersey.

Patricia E. Fahy
Deputy Municipal Clerk"

INTRODUCTION OF ORDINANCE #96-02 JANUARY 22, 1996 BY THE FOLLOWING
VOTE:

INTRODUCED BY: COUNCILMAN SMALLHEER

SECONDED BY: COUNCILMAN PALMIERI

ROLL CALL,

AYES: SMALLHEER, PALMIERI, PURPURA, FLORIA,

NAYS: SHORE

2ND READING OF ORDINANCE #96-02 FEBRUARY 26, 1996 BY THE FOLLOWING
VOTE:

INTRODUCED BY: COUNCILMAN SMALLHEER

SECONDED BY: COUNCILMAN PURPURA

ROLL CALL,

AYES: SMALLHEER, PURPURA, PALMIERI, FLORIA

NAYS: NONE

ABSENT: MAYOR SHORE