

**CITY OF LYNN**

In City Council \_\_\_\_\_ May 27 1997

IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY-SEVEN AN ORDINANCE AMENDING THE ORDINANCE PROHIBITING THE SALE OF TOBACCO PRODUCTS TO MINORS IN THE CITY OF LYNN

Be it Ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:

**SECTION 1.** The Ordinance Prohibiting the Sale of Tobacco Products to Minors in the City of Lynn is hereby amended by adding to the existing Section 7, the following:

*"The City Clerk or his designee and/or agent, which may include but is not limited to the Parking Department, shall have the authority to act as fine collector."*

**SECTION 2.** Said ordinance is further amended by adding the following section after Section 14:

***Section 15. Non-Criminal Disposition.***

*Whoever violates any provisions of this ordinance, the violation of which is subject to a special penalty, may be penalized by the noncriminal disposition as provided in General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue."*

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** This Ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.



July 8, 1997

IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY SEVEN AN ORDINANCE PROHIBITING THE POSSESSION OF TOBACCO BY PERSONS UNDER 18 YEARS OF AGE IN THE CITY OF LYNN

Be it Ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:

SECTION 1. The Ordinance Prohibiting the Possession of Tobacco Products by Persons Under 18 Years of Age in the City of Lynn is hereby amended by adding to the existing Section 6, the following:

*. "The City Clerk or his designee and/or agent, which may include but is not limited to the Parking Department, shall have the authority to act as fine collector."*

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This Ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.

# CITY OF LYNN

*In City Council March 11, 1997*

IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY-SEVEN AN ORDINANCE  
PROHIBITING THE SALE OF TOBACCO PRODUCTS TO MINORS IN THE CITY OF LYNN

Be it Ordained by the City Council of the City of Lynn and by the authority of  
the same as follows, to wit:

**WHEREAS**, tobacco use is a leading public health problem in the City of Lynn  
and throughout the United States; and

**WHEREAS**, there exists conclusive evidence that tobacco smoke causes cancer,  
respiratory diseases, various cardiac diseases, negative birth outcomes, allergies and  
irritations to the eyes, nose and throat of both the smoker and non-smoker exposed to  
second hand smoke; and

**WHEREAS**, tobacco use by minors is a continuing problem with grave public  
health consequences because more than 80% of all smokers begin before the age of 18  
and more than 3,000 people begin smoking every day in the United States; and

**WHEREAS**, the U.S. Department of Health and Human Services has concluded  
that nicotine is an addictive as cocaine or heroin; and

**WHEREAS**, in Lynn, an estimated 40% of all natural deaths are related to lung  
cancer, compared to 36% statewide, action is needed to curtail the easy access of tobacco  
products to minors.

**NOW THEREFORE**, be it Ordained that a strict and enforceable system to  
prevent access to and the illegal sale of tobacco products to minors be enacted as  
follows.

**SECTION 1.** An Ordinance Prohibiting the Sale of Tobacco Products to Minors in the  
City of Lynn is hereby established, and said Ordinance shall provide as follows:

"No person shall sell tobacco products or permit the same to be sold to a minor."

**SECTION 2. Definitions:** For the purposes of this ordinance, the following words shall  
have the meanings respectively ascribed to them by this ordinance:

**Board:** Board of Health of the City of Lynn

**City:** City of Lynn

**Minor:** Any individual who is under the age of eighteen (18)

# CITY OF LYNN

*In City Council*

May 27,  
1997

IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY-SEVEN AN  
ORDINANCE AMENDING THE ORDINANCE PROHIBITING THE SALE OF  
TOBACCO PRODUCTS TO MINORS IN THE **CITY OF LYNN**

Be it Ordained by the City Council of the City of Lynn and by the authority of the  
same as follows, to wit:

SECTION 1. The Ordinance Prohibiting the Sale of Tobacco Products to Minors in  
the City of Lynn is hereby amended by adding to the existing Section 7, the following:

*"The City Clerk or his designee and/or agent, which may include but is  
not limited to the Parking Department, shall have the authority to act  
as fine collector."*

SECTION 2. Said ordinance is further amended by adding the following section after  
Section 14:

*"Section 15. Non-Criminal Disposition.  
Whoever violates any provisions of this ordinance, the violation of which is  
subject to a special penalty, may be penalized by the noncriminal  
disposition as provided in General Laws, Chapter 40, Section 21D or by  
filing a criminal complaint at the appropriate venue."*

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby  
repealed.

SECTION 4. This Ordinance shall take effect thirty-one (31) days after its final  
approval as adopted and advertised.

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*In City Council* \_\_\_\_\_

the provisions of this ordinance. The Lynn Board of Health shall respond to any requests from the tobacco vendors/retailers for assistance in training sales personnel.

**SECTION 13.** The Lynn Board of Health and/or its agents or designees are hereby required to do the following:

- a. Complete at least three compliance checks per year;
- b. Require any and all permit holders to initial and sign the tobacco sales permit checklist, as herein outlined, prior to the renewal  
•• of any permit or issuance of any new tobacco sales permit;
- c. Mail to all permit holders by U.S. Mail, 1st class postage pre-paid, the complete results of any and all compliance checks.

**SECTION 14.** The following checklist shall be the form used by the Lynn Board of Health and/or its agents:

## TOBACCO SALES PERMIT CHECKLIST

This form must be initialed and signed by the owner/operator of the establishment applying for a Board of Health Tobacco Sales Permit. No permit will be issued until this checklist has been initialed and signed.

- 1) I have read and I understand all subsections within the Tobacco Sale Ordinance (Regulations Affecting Smoking and the Sale, Vending and Distribution of Tobacco in the City of Lynn). \_\_\_\_\_  
Initial
- 2) I understand that it is against the law to sell cigarettes or any tobacco product to anyone under 18 years of age, regardless of how old the person looks. \_\_\_\_\_  
Initial
- 3) I understand that the Lynn City Ordinance requires anyone selling tobacco to conclusively establish the customers age. This means that the Clerk must ask for and see identification proving the person is at least 18 years of age. \_\_\_\_\_  
Initial
- 4) I understand that the owner/operator of a business holding a tobacco sales permit is responsible for the operation of a vending machine on the premises. \_\_\_\_\_  
Initial
- 5) The Lynn City Ordinance requires the owner/operator of an establishment to control the sale of tobacco products. This means that the employees of a bar with a vending machine are responsible for ensuring that minors do not enter the establishment and obtain cigarettes. \_\_\_\_\_  
Initial

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*In City Council*

- 6) I understand that the North Shore Tobacco Control Program will conduct frequent compliance checks of my business to ensure that I am .not selling tobacco products to minors. This means:
- a) NSTCP will send minors into my establishment to attempt the purchase of tobacco.
  - b) These minors may or may not look 18 years of age.
  - c) These minors may or may not respond truthfully when asked their age.
  - d) NSTCP will conduct these compliance checks on all tobacco, merchants-including bars and private clubs - regardless of their type of business.
- \_\_\_\_\_  
Initial
- 7) I understand that if I am caught selling tobacco to minors, I will be fined at least \$100.00
- \_\_\_\_\_  
Initial
- 8) I understand that if I am caught selling tobacco to minors three times in any two year period, regardless of whether any of the tickets are appealed or dismissed, I will forfeit my permit to sell tobacco products for thirty (30) business days.
- \_\_\_\_\_  
Initial

By signing this form, I acknowledge that I have read and understood all of the above statements.. I further: understand that failure to abide by these conditions may jeopardize my Tobacco Sales Permit.

**Owner/Operator**

**Date**

**SECTION 15. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.**

**SECTION 16. This Ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.**

Phelan/draft/3/17/97

# CITY OF LYNN

## *In City Council*

Person: A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products

Tobacco products: Cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms

SECTION 3. Notice of prohibition: No person shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with three notices which are clearly visible to anyone purchasing such products and which states: »

*"Massachusetts state law prohibits the sale of tobacco products to any person under the age of eighteen (18) years of age. See M. G.L. c. 270 § 6."*

Said notices must be printed in black letters at least one (1) inch in height on a white background, and shall be available upon request from the Board of Health and at least one notice will be placed on the front/main entrance of location and one at point of sale.

SECTION 4. A person selling tobacco products shall request and examine identification from any purchaser, and shall positively establish the purchaser's age as eighteen (18) years or older before allowing the purchase.

The following shall constitute positive identification: a valid Massachusetts driver's license; or a certified birth certificate along with a picture identification card, or two other similar forms of identification, one of which shall be\* a picture identification card.

SECTION 5. Any and all persons selling tobacco products shall not advertise tobacco products on any public property or public way. All advertising of tobacco products shall be limited exclusively to the private property of the person.

SECTION 6. In accordance with the City of Lynn Department of Health Regulations pertaining to "Out of Package Sales of Tobacco Products dated July 2, 1996, it shall be unlawful to remove and commercially sell single cigarettes from the manufacturer's package which states the federally required health warnings. Commercial sale and/or distribution of tobacco products in any other form other than original factory-wrapped package is prohibited.

SECTION 7. Any person violating Section 1 and/or Section 6 of this ordinance shall be subject to a fine of not less than One Hundred Dollars (\$100.00) and retraining for the first offense; and, for the second offense, a fine of not less than Two Hundred Dollars (\$200.00) retraining and suspension of the "Permit for Sale of Tobacco Products" issued

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*In City Council* \_\_\_\_\_

by the Board of Health, for seven days; and, for the third offense and each offense thereafter, a fine of not less than Three Hundred Dollars (\$300.00) and immediate forfeiture of the right/privilege and/or permit to sell tobacco products in the City of Lynn for thirty (30) business days. Any and all appeals will be consistent with The Lynn Board of Health's established procedures.

SECTION 8. Any vendor/merchant, who has forfeited their right/privilege to sell tobacco products for thirty (30) days as a result of violation of the "third offense", as described in Section 7, must establish that its employees successfully participated in a tobacco retraining program as outlined by the Lynn Board of Health, its agents and/or designees, the North Shore Tobacco Control Program and/or any other established, reputable training program. The vendor and/or merchant's permit will be immediately reinstated upon expiration of the thirty (30) day period as described.. The City Council Ordinance Committee, however, will determine at its next meeting whether the vendor/merchant has successfully completed the retraining requirements of this section. The burden is on the vendor/merchant to establish such. If the vendor/merchant fails to meet these requirements, their permit will henceforth be immediately suspended until they do so.

SECTION 9. This section pertains to Section 1 and Section 7 only. If from the date of the first violation/offense, any person does not violate this ordinance for a period of two years, the next offense will be considered a first offense. If a second offense occurs within that same two year period, it will be considered a second offense. The next offense will be considered a third offense if it occurs within a two year period from the date of the second offense. If from the date of the second offense, no violation occurs for a period of two years, the next offense will be considered a first offense.

SECTION 10. Any person failing to request identification and/or failure to properly post notices and/or advertising on a public way, all as herein outlined, will be subject to a Fifty (\$50.00) fine for each violation. In addition to said fine for failure to request I.D., said person will-be required to attend retraining.

SECTION 11. Any and all retraining programs will be determined by the Lynn Board of Health and/or its designee or agents, and will include any and all possible health effects of tobacco use.

## SECTION 12. PUBLIC EDUCATION

The Lynn Board of Health shall engage in a continuing program to explain and clarify the purposes and requirements of the ordinance to citizens affected by it, and to guide owners, operators and managers in their compliance with said ordinance. Such program may include publication of a brochure for affected businesses and individuals explaining

# CITY OF LYNN



In City Council October 8, 1996

## IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY SIX AN ORDINANCE PROHIBITING THE POSSESSION OF TOBACCO BY PERSONS UNDER 18 YEARS OF AGE IN THE CITY OF LYNN

Be it ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:-

**SECTION 1.** An Ordinance Prohibiting the Possession of Tobacco by Persons Under 18 Years of Age in the City of Lynn is hereby established, and said ordinance shall provide as follows:

"No person under 18 years of age shall purchase, possess or use any tobacco product."

**SECTION 2.** The prohibition on possession of tobacco products shall not be deemed to prohibit persons under the age of 18 years employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

**SECTION 3.** A person under 18 years of age shall not misrepresent his or her age for the purpose of purchasing tobacco products.

### **SECTION 4. Non-Criminal Disposition**

Whoever violates any provisions of this ordinance, the violation of which is subject to a specific penalty, may be penalized by the non-criminal disposition as provided in General Laws, C. 40, §21D or by filing a criminal complaint at the appropriate venue.

**SECTION 5.** Any persons under 18 years of age who violates this ordinance shall be guilty of a violation and shall be punished by immediate confiscation of any and all visible tobacco products in his/her possession. In addition, the following penalties will be imposed.

1st Offense: Successful completion of the Lynn Community Health's Smoking Cessation Program within a two (2) month period of the violation. If said program is not completed within a two (2) month period a \$ 100.00 fine will be imposed.

2nd Offense: \$100.00 fine or successful completion of 20 hours of Community Service.

3rd and All Subsequent Offenses: \$100.00 fine.



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*In City Council* \_\_\_\_\_ 19

**SECTION 6.** Enforcement of this ordinance shall be implemented by the Lynn Board of Health, its agents, designees, or appointees and the Lynn Police Department.

The Lynn Board of Health shall have the authority to act as fine collector.

The Department of Community Development will administer, enforce and oversee, at its discretion any and all persons deemed by the Lynn Board of health to participate in Community service as described by Section 5 of this ordinance.

**SECTION 7.** Severability

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**SECTION 8.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 9.** This ordinance shall take effect thirty one (31) days after its final approval as adopted and advertised.

**IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY-FIVE  
AN ORDINANCE REGULATING THE SALE OF TOBACCO PRODUCTS  
THROUGH VENDING MACHINES IN THE CITY OF LYNN**

Be it Ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:-

**SECTION 1.** An ordinance regulating the sale of tobacco products through vending machines in the City of Lynn is hereby established and said ordinance shall provide as follows.

**SECTION 2. Definitions.**

1. "Sales" means the giving, selling, delivering, dispensing, issuing, offering to give, sell, deliver, dispense or issue, or cause or hiring any person to give, sell, deliver, dispense, issue or offer to give, sell deliver, dispense or issue.
2. "Person" means any natural person, corporation, partnership, firm, organization or other legal entity.
3. "Public place" means any area to which the public is invited or in which the public is permitted.
4. "Tobacco products" means any substance which contains tobacco, including but not limited to cigarette, cigars, smoke tobacco and smokeless tobacco.
5. "Vending machine" means any self-service device offered for public use, which, upon insertion of a coin, coins, token, paper currency, or by other means, dispenses tobacco products.

**SECTION 3. Sales of tobacco products through vending machines.**

All sales of tobacco products by vending machines within the City of Lynn shall be prohibited unless:

1. The vending machine is located within the immediate vicinity, plain view and control of a responsible employee, so that all purchases are observable and controllable as if the tobacco products were sold over the counter; and must be inaccessible to the public when the establishment is closed;
2. The vending machine is equipped with a lock-out device approved by the Health Commissioner. Said device shall lock-out sales from vending machines unless any employee releases the locking mechanism. The release mechanism must not allow continuous operation of the vending machine and must not be accessible to customers. Vending machines shall be posted with a sign



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*In City Council*

*Ordered that*

stating that the machine is equipped with a lock-out device and identifying the person(s) to contact to purchase tobacco products from the machine; and

3. All tobacco products vending machines must display a conspicuous sign stating that it is illegal for minors to purchase cigarettes; and

4. Or, unless the use of the premises is restricted to persons over the age of eighteen.

## **SECTION 4. Violation-Penalty.**

Any person who knowingly violates any provision of this Chapter may be penalized by a non-criminal disposition as provided in G.L., Chapter 40, §21D. For purposes of this section, the following officials shall be enforcing persons: police officers, health inspectors and building inspectors.

The penalty for the first violation shall be One Hundred (\$100.00) Dollars; for the second violation, Two Hundred (\$200.00) Dollars; and for all subsequent violations, Three Hundred (\$300.00) Dollars.

**SECTION 5.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 6.** This ordinance shall take effect thirty one (31) days after its final approval as adopted and advertised.