

Ordinance Enacted: 7/19/99

Entered into Database: 1/26/01

ORDINANCE NO. 1999-07-11

AN ORDINANCE OF THE CITY COUNCIL OF GROVELAND, FLORIDA; PROVIDING INTENT; PROVIDING DEFINITIONS; PROHIBITING PLACEMENT OF TOBACCO PRODUCTS IN SELF-SERVICE DISPLAYS ACCESSIBLE TO MINORS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE GROVELAND CITY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has enacted laws, located in Chapter 569, Florida Statutes, that provide for increased regulation of the retail sale of tobacco products; and

WHEREAS, within Chapter 569, Florida Statutes, the Florida Legislature has provided for civil, administrative, and/or criminal penalties for the sale of tobacco products to a person under the age of 18 and for the possession of such tobacco products by a person under the age of 18; and

WHEREAS, the State of Florida has entered into a settlement agreement with the tobacco industry for billions of dollars to reimburse the State for some of the health care costs incurred by the State due to the prevalence of tobacco use; and

WHEREAS, the settlement agreement between the State of Florida and the tobacco industry provides for a pilot program which is aimed specifically at the reduction of the use of tobacco products by persons under the age of 18; and

WHEREAS, the United States Surgeon General and the United States Department of Health and Human Services have found that a majority of those Americans who die of tobacco related diseases became addicted to tobacco products prior to reaching the legal age of consent; and

WHEREAS, survey results conducted in October and December of 1998 showed that

NATURE SAVER™ FAX MEMO 01616		Date	10/25/00	Page	3
To	Velma S.	From	City of Groveland		
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Fax #	(610) 841-3060	Fax #	(352) 429-3852		

90% of tobacco retailers have tobacco products located on, in front of and beside the counter and 25% of tobacco retailers have tobacco product displays and open containers located directly next to entranceways; and

WHEREAS, the City Council of Groveland, Florida along with the citizens of Groveland are concerned about the use of tobacco products by persons under the age of 18; and

WHEREAS, the City Council of Groveland, Florida believes that a reduction in the availability, both visually and physically, of tobacco products to persons under the age of 18 will likely lead to a reduction in tobacco product use by that age group; and

WHEREAS, Chapter 569, Florida Statutes, does not prohibit local governments from regulating the placement and merchandising of tobacco products; and

WHEREAS, the United States Supreme Court has held in *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 102 S.Ct. 1186, 71 L.Ed.2d 362 (1981), that ordinances that regulate the commercial marketing of items that may be used for illegal purposes does not violate the First Amendment; and

WHEREAS, the City Council of Groveland, Florida desires to regulate the placement of tobacco products as it is in the best interests of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Groveland, Florida, that:

Section 1. Intent. This Ordinance is intended to prevent the sale to and possession of tobacco products by persons under the age of 18 by regulating the commercial marketing and placement of such products. This Ordinance shall not be interpreted or construed to prohibit the sale or delivery of tobacco products which are otherwise lawful or regulated pursuant to Chapter 569, Florida Statutes.

Section 1. Definitions. For the purpose of this Ordinance the following terms shall

mean:

Business means any sole proprietorship, joint venture, corporation or other business formed for profit making or non profit purposes, including retail establishments where goods or services are sold.

Person means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

Self-service merchandising means the open display of tobacco products to which the public has access without the intervention of the vendor, store owner or other store employee.

Tobacco products include loose tobacco leaves, and products made from tobacco leaves in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing or chewing.

Tobacco retailer means any person or business that operates a store, stand, booth, concession or other place at which sales of tobacco products are made to purchasers for consumption of use.

Vendor assisted means the customer has no access to tobacco products without the assistance of the vendor, store owner or other store employee.

Section 3. Self-Service Merchandising Prohibited. No person, business, tobacco retailer or other establishment subject to this Ordinance shall sell, permit to be sold, offer for sale or display for sale any tobacco products by means of self-service merchandising or any other means other than vendor assisted sales, unless access to the premises by persons under the age of 18 is prohibited by the person, business, tobacco retailer or other establishment or prohibited by law.

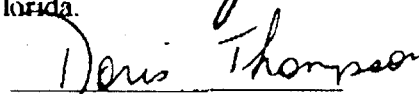
Section 4. Enforcement. The provisions of this Ordinance shall be enforced by the Groveland Code Enforcement Board.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Inclusion in the Code. It is the intention of the City Council and it is hereby provided that the provisions of this ordinance shall be made a part of the Groveland City Code; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 7. Effective Date. This ordinance shall become effective immediately upon receipt by the City Clerk of notice that it has been filed with the Department of State.

PASSED AND ORDAINED THIS 19th day of July, 1999, by the Groveland City Council of the City of Groveland, Florida.


Doris Thompson, Mayor
Groveland City Council

ATTEST:


Jason L. Yarborough
City Manager