

ORDINANCE NO 00- 75

AN ORDINANCE PROHIBITING SELF-SERVICE MERCHANDISING OF TOBACCO PRODUCTS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR A PENALTY; PROVIDING FOR SEVFRABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:

SECTION 1. DEFINITIONS.

- A. *Business.* Business means any sole proprietorship, joint venture, corporation or other business formed for profit making or nonprofit purposes, including retail establishments where goods or services are sold.
- B. *Person.* Person means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.
- C. *Self-service merchandising.* 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. Self-merchandising includes vending machines.
- D. *Tobacco products.* Tobacco products includes loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrapper, which cab be used for smoking, sniffing or chewing.
- E. *Tobacco retailer.* 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.
- F. *Tobacco specialty shop.* Tobacco specialty shop means a business establishment in which fifty percent (50%) or more of any one or more of the following is devoted to or attributable to the sale of pipe tobacco or cigars:
- (1) Wall space or any other display areas such as tables, racks or display structures; or,
 - (2) Gross revenues.
- G. *Vendor assisted.* Vendor assisted means the customer has no access to tobacco products without the assistance of the vendor, store owner, or other store employee.

SECTION 2. 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 than vendor assisted sales, unless the tobacco products are located inside a tobacco speciality store, or access to the premises by persons under the age of 18 is prohibited by the person, business, tobacco retailer or other establishment or is prohibited by law.

SECTION 3. APPLICABILITY.

This ordinance shall apply to the unincorporated and incorporated areas of Polk County in accordance with Article 1, Section 1.8 of the Polk County Home Rule Charter.

SECTION 4. PENALTY.

Violation of this ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for 60 days or by both such fine and imprisonment.

SECTION 5. SEVERABILITY.

If any provisions of this ordinance is for any reason held unconstitutional or otherwise invalid by a court of competent jurisdiction, the ordinance shall remain in effect as to its other provisions.

SECTION 6. EFFECTIVE DATE.

This ordinance shall become effective from the date of the receipt of the letter confirming its delivery to the Secretary of State.