

ORDINANCE NO. 2013 - 34

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY FLORIDA, RESTRICTING THE DISPLAY AND SALE OF FLAVORED TOBACCO PRODUCTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 22, 2009 the President of the United States signed into law the Family Smoking Prevention and Tobacco Control Act, which among other things, increased nationwide efforts to block tobacco product sales to youth; and

WHEREAS, Chapter 569, Florida Statutes provides for increased regulation of the retail sale of tobacco products; and

WHEREAS, 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 United States Congress made the following findings of fact concerning tobacco use by minors:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease. Such a reduction in youth smoking would also result in approximately \$75,000,000,000 in savings attributable to reduced health care costs; and

WHEREAS, marketing and public health research shows that flavors such as fruit, candy, and alcohol hold an intense appeal to minors and young adults; and

WHEREAS, the Board of County Commissioners of St. Johns County (“Board”) is concerned about the use of tobacco products by persons under the age of 18; and

WHEREAS, the Board finds that restricting the placement of flavored tobacco products promotes public health by reducing exposure to the products by minors without unnecessarily restricting the commercial communications beyond the placement of products; and

WHEREAS, the Board finds that it is in the best interest of the public health, safety and welfare to regulate the placement of flavored tobacco products.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. EFFECT OF RECITALS.

The above recitals are hereby adopted and incorporated herein by reference.

SECTION 2. PURPOSE & INTENT.

The purpose and intent of this ordinance is to protect public health and welfare by reducing the appeal of tobacco to minors and reducing the likelihood that minors will become tobacco users later in life.

SECTION 3. JURISDICTION.

This Ordinance shall apply to and be effective in the unincorporated areas of St. Johns County.

SECTION 4. DEFINITIONS. For purposes of this ordinance:

- (a) *CHARACTERIZING FLAVOR* means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint, or wintergreen, imparted either prior to or during the consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, honey, dessert, coconut, licorice, cocoa, chocolate, cherry, coffee, candy or alcohol flavors.
- (b) *COMPONENT PART* means any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.
- (c) *CONSTITUENT* means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product.

(d) *FLAVORED TOBACCO PRODUCTS* shall mean any tobacco or component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

(e) *VENDOR-ASSISTED* shall mean the customer has no access to tobacco products without the assistance of the vendor, store owner, or other store employee.

SECTION 5. RESTRICTION ON THE DISPLAY AND SALE OF FLAVORED TOBACCO PRODUCTS.

(a) No person, business, tobacco retailer, or other vendor shall place flavored tobacco products in an open display unit, or sell, permit to be sold, offer for sale, or display for sale any flavored tobacco products by means of self-service tobacco merchandising, or any other means other than vendor-assisted sales.

(b) This section shall not apply to any establishment that prohibits persons less than 18 years of age on the premises.

(c) Nothing in this Ordinance shall repeal or otherwise replace or affect any of the provisions of Ordinance 2000-44 that are not in conflict herewith.

SECTION 6. ENFORCEMENT & PENALTIES.

The County and the Sheriff's Office may pursue any enforcement action or legal remedy available under Florida law and any legal remedy available to the County, including, but not limited to, a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or any combination thereof. Venue for any administrative and/or legal action arising under this Ordinance shall be in St. Johns County, Florida.

SECTION 7. SEVERABILITY.

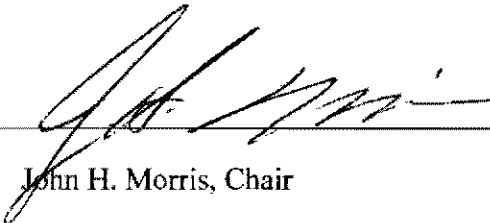
Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be held invalid, unconstitutional, or preempted by Federal or State law, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid. All ordinances or parts of ordinances which are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION 8. EFFECTIVE DATE.

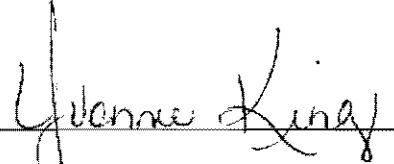
This Ordinance shall take effect immediately upon its filing with the Office of the Secretary of the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 30th day of December, 2013.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: 
John H. Morris, Chair

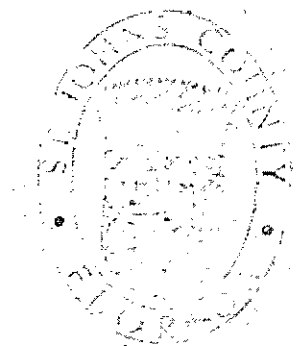
ATTEST: CHERYL STRICKLAND, CLERK OF COURT

By: 
Deputy Clerk

Rendition Date: 12/05/13

Adopted Regular Meeting 12/03/13

Effective: 12/06/13



MINUTES AND RECORDS
500 SAN SEBASTIAN VIEW
SAINT AUGUSTINE FL 32084

Ref.#: L3479-13
P.O.#: L3479-13

PUBLISHED EVERY MORNING SUNDAY THRU SATURDAY
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

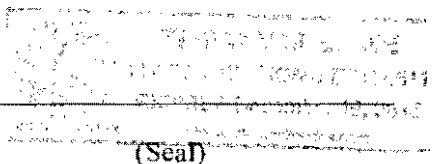
STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **STEVEN SMITH**
who on oath says that he/she is an Employee of the St. Augustine Record,
a daily newspaper published at St. Augustine in St. Johns County, Florida:
that the attached copy of advertisement being a **NOTICE OF HEARING**
In the matter of **TOBACCO ORDINANCE HG - HEARING NOV 19 & DEC 3, 2013**
was published in said newspaper on **11/12/2013**

Affiant further says that the St. Augustine Record is a newspaper published
at St. Augustine, in said St. Johns County, Florida, and that the said newspaper
heretofore has been continuously published in said St. Johns County, Florida,
each day and has been entered as second class mail matter at the post office in the
City of St. Augustine, in said St. Johns County, for a period of one year preceding
the first publication of the copy of advertisement; and affiant further says that
he/she has neither paid nor promised any person, firm or corporation any discount,
rebate, commission or refund for the purpose of securing the advertisement for
publication in the said newspaper.

Sworn to and subscribed before me this _____ day of _____
by Steven Smith who is personally known to me
or who has produced as identification

Riffany M. Zane
(Signature of Notary Public)



**NOTICE OF A PUBLIC HEARING
BY THE
ST. JOHNS COUNTY BOARD OF
COUNTY COMMISSIONERS**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing on **Tuesday, November 19, 2013, at 9:00 a.m. and Tuesday, December 3, 2013, at 9:00 a.m.** in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, to consider adoption of the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY FLORIDA, RESTRICTING THE DISPLAY AND SALE OF FLAVORED TOBACCO PRODUCTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners of the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, Florida and may be examined by parties interested prior to the public hearing.

Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, FL 32084. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770, no later than 3 days prior to the date of the hearing.
**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, ITS
CLERK
By: Yvonne King, Deputy Clerk
L3479-13 Nov 12, 2013**



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 6, 2013

Ms. Cheryl Strickland
Secretary
St. Johns County
500 San Sebastian View
St. Augustine, Florida 32084

Attention: Ms. Yvonne King, Deputy Clerk

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 2013-36, which was filed in this office on December 6, 2013.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

2013 DEC -6 PM 4:18
Liz Cloud
Program Administrator