

Local Law #11 of 2018  
Resolution #215  
(passed at Regular Full Mtg. 10/02/2018)

**A LOCAL LAW TO AMEND THE PUTNAM COUNTY CODE ADDING A NEW CHAPTER 223, ENTITLED “TOBACCO SALES” WITH A NEW ARTICLE I, ENTITLED “THE TOBACCO 21 ACT”**

Be it enacted by the Legislature of the County of Putnam as follows:

**Section 1.**

Creating Chapter 223 of the Putnam County Code entitled “Tobacco Sales”.

**Section 2**

Chapter 223 of the Putnam County Code is hereby amended to add a new Article I, entitled “The Tobacco 21 Act” to read as follows:

§ 223-1 Findings and intent; statutory authority.

A. The Putnam County Legislature hereby finds as follows:

- (1) Approximately 96 percent of smokers begin smoking before age 21 with most beginning before age 16. Smokers frequently transition from experimentation to addiction between the ages of 18 and 21; and
- (2) Youth get their cigarettes from social sources, most of whom are peers age 18 to 21. Today, there are more 18 and 19 year olds in high school than in past years, thus, permitting tobacco product sales to 18 or 19 years old no longer makes sense; and
- (3) Few 21 year olds travel within high school social circles; thus, raising the minimum consumer age for tobacco product sales to age 21 will effectively remove this critical source of tobacco, thereby delaying or preventing smoking initiation; and
- (4) Evidence shows the younger the age of initiation, the greater the risk of nicotine addiction, heavy daily smoking, and difficulty quitting; and
- (5) Adolescents are particularly susceptible to the “rewarding” effects of nicotine. In fact, nicotine addiction, which can develop at low levels of exposure, well before established daily smoking, causes three out of four young smokers to continue smoking into adulthood, even if they intended to quit after a few years; and
- (6) Findings by the New York State Department of Health confirm that Electronic Cigarettes (E-cigarettes), which heat a solution of liquid nicotine flavorings and other chemicals to create an aerosol that is inhaled, are the most commonly used tobacco product among youth in New York. In fact,

E-cigarette use among New York youth doubled from 2014 to 2016 and is now triple the rate of e-cigarette use among New York adults; and

- (7) E-cigarettes use does not prevent or “protect” youth from smoking. Most of the e-liquids used in e-cigarettes contain nicotine, the highly addictive compound in all tobacco products that is not harmless and may be particularly problematic to young people; and
- (8) Recent studies indicate that the brain continues to develop until approximately age 25, particularly in ways that affect impulsivity, addiction and decision making; and
- (9) Delaying smoking initiation reduces the likely of ever starting, reduces the number of regular smokers, and lessens the immediate, mid and long-term health effects of smoking to an individual.

**B.** Therefore, the Putnam County Legislature declares the intent and purpose of this article is to improve the public health and well-being of the County’s youth, such that it is necessary to prohibit the sale of tobacco products to an individual under twenty-one (21) years of age and, in turn, prevent young adults from becoming addicted adult smokers and avoid the associated serious health consequences that follow.

**C.** Unless otherwise noted herein, article 13-F of the New York State Public Health Law shall apply.

#### **§ 223-2 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ACCESSORY** — Any product that is intended or reasonably expected to be used with or for the human consumption of a Tobacco Product or Electronic Aerosol Delivery System; does not contain tobacco and is not made or derived from tobacco; and meets either of the following: (1) is not intended or reasonably expected to affect or alter the performance, composition, constituents, or characteristics of a Tobacco Product or Electronic Aerosol Delivery System; or (2) is intended or reasonably expected to affect or maintain the performance, composition, constituents, or characteristics of a Tobacco Product or Electronic Aerosol Delivery System but (a) solely controls moisture and/or temperature of a stored Tobacco Product or Electronic Aerosol Delivery System; or (b) solely provides an external heat source to initiate but not maintain combustion of a Tobacco Product. Accessory includes, but is not limited to, carrying cases, lanyards and holsters.

**COMPONENT or PART** — Any software or assembly of materials intended or reasonably expected: (1) to alter or affect the Tobacco Product’s or Electronic Aerosol Delivery System’s performance, composition, constituents, or characteristics; or (2) to be used with or for the human consumption of a Tobacco Product or Electronic Aerosol Delivery System. Component or Part excludes anything that is an Accessory, and includes, but is not limited to e-liquids, cartridges, certain batteries, heating coils, programmable

software, rolling papers, and flavorings for Tobacco Products or Electronic Aerosol Delivery Systems.

**DEPARTMENT — The Putnam County Health Department.**

**ELECTRONIC AEROSOL DELIVERY SYSTEM — An electronic device that, when activated, produces an aerosol that may be inhaled, whether or not such aerosol contains nicotine. Electronic Aerosol Delivery System includes any Component or Part but not Accessory, and any liquid or other substance to be aerosolized, whether or not separately sold. Electronic Aerosol Delivery System does not include drugs, devices, or combination products authorized for sale by the state or U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.**

**PERSON — Any natural person, company, corporation, firm, partnership, business, organization, or other legal entity.**

**TOBACCO PRODUCT — Any product made or derived from tobacco or which contains nicotine, marketed or sold for human consumption, whether consumption occurs through inhalation, or oral or dermal absorption. Tobacco Product includes any Component or Part, but not Accessory. Tobacco Product does not include drugs, devices, or combination products authorized for sale by the state or U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.**

#### **§ 223-3 Minimum Sales Age.**

**No Person shall sell any Tobacco Product, Electronic Aerosol Delivery System, or other product regulated by Article 13-F of New York State Public Health Law to individuals who are between the ages of eighteen (18) and twenty-one (21) years of age.**

#### **§ 223-4 Age Verification.**

**Sales by a Person of any Tobacco Product, Electronic Aerosol Delivery System, or any other product regulated by New York State Public Health Law Article 13-F shall be made only to an individual who demonstrates through the processes contained in New York State Public Health Law Article 13-F Section 1399-cc(3), as the same may be amended from time to time, that the purchaser is of twenty-one (21) years of age or older.**

#### **§ 223-5 Signage.**

**Any Person operating a place of business wherein any Tobacco Product, Electronic Aerosol Delivery System, or any other product regulated by New York State Public Health Law Article 13-F, is sold or offered for sale shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height.**

#### **§ 223-6 Violations and Enforcement.**

- A. The Department or its authorized designee(s) shall enforce the provisions of this article. The Department may conduct periodic inspections in order to ensure compliance with this article.**
- B. Any Person who violates any provision of this article shall be guilty of a violation punishable by a fine of a minimum of \$300.00, but not to exceed \$1,000.00 for a first violation, and a minimum of \$500.00, but not to \$1,000.00 for each subsequent violation. Each day on which a violation occurs shall be considered a separate and distinct violation.**
- C. Violations of this article shall be separate from, and where applicable, any penalty provided for under New York State Public Health Law § 1399-ee - § 1399-ff unless such penalty is expressly provided for herein.**

#### **§ 223-7 Rules and Regulations**

**The Department may issue and amend rules, regulations, standards, guidelines, or conditions to implement and enforce this article.**

#### **§ 223-8 Severability**

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

#### **§ 223-9 - Reverse pre-emption.**

**This Article shall be null and void on the day that federal or statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this Article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Putnam. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations, have been enacted for purposes of triggering the provisions of this Section.**

#### **Section 3**

**This Local Law shall take effect 60 days from its filing with the NYS Secretary of State.**