

**Introduced by:** Majority Leader Thomas J. Clarke, II  
Councilman John Q. Gale  
Councilman James B. Sanchez

**HEADING  
AND  
PURPOSE**

**AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IVa, SECTION 102, et Seq. OF THE  
HARTFORD MUNICIPAL CODE**

COURT OF COMMON COUNCIL,  
CITY OF HARTFORD

February 9, 2021

Be It Hereby Ordained by the Court of Common Council of the City of Hartford:

**SECTION I. FINDINGS**

The Hartford Court of Common Council finds that:

- (1) Documents obtained during litigation against the tobacco industry reveal that tobacco companies have used fruit, candy, and alcohol flavors as a way to target youth. Tobacco industry documents stated that “sweetness can impart a different delivery taste dimension which younger adults may be receptive to,” that “[i]t’s a well-known [sic] fact that teenagers like sweet products,” and that flavored products would have appeal “in the under 35 age group, especially in the 14-24 group.”
- (2) Marketing and public health research shows that flavors such as fruit, candy, and alcohol hold an intense appeal to minors and young adults. The presence of flavors such as menthol in tobacco products can make it more difficult for adult tobacco users to quit. Moreover, menthol cigarettes in particular have a disproportionate health impact on youth, as well as members of racial and ethnic populations, the LGBT community, and people of low socio-economic status.
- (3) Forty-one state attorneys general sued a tobacco company selling flavored cigarettes, arguing that it was violating the 1998 Master Settlement Agreement by targeting youth. The settlement of that litigation included an agreement that the tobacco company stop marketing flavored cigarettes.
- (4) The Family Smoking Prevention and Tobacco Control Act of 2009 prohibits the manufacture and sale of flavored cigarettes, except menthol cigarettes. No federal prohibition exists for flavored non-cigarette tobacco products.
- (5) Jurisdictions such as the States of New Jersey and Massachusetts; New York City; Providence, Rhode Island; and Chicago, Illinois have passed restrictions on the sale of flavored tobacco products. The authority of state and local governments to restrict the sale of these products has been upheld by federal courts.
- (6) Accordingly, the City Council finds and declares that the purpose of this ordinance is to protect public health and welfare by reducing the appeal of tobacco to minors and reduce the likelihood that minors will become tobacco users later in life.

**SECTION II. DEFINITIONS**

As used in this ordinance:

- (a) “*Electronic smoking device*” means any device that may be used to deliver any aerosolized or vaporized substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes

any component, part, or accessory of such a device, whether or not sold separately and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(b) “*Flavored tobacco product*” means any tobacco product that imparts a taste or smell, other than the taste or smell of tobacco either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice.

(c) *Retailer* means any person or business that owns, operates, or manages any place at which tobacco products are sold. Retailer also includes any person or business that is required to purchase a dealer's license under G.S. § 12-287.

(d) “*Tobacco product*” means any product containing, made of, or derived from tobacco or nicotine, that is intended for human consumption, or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; any electronic smoking device as defined in this section and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and the term “tobacco product” includes any component, part or accessory used in the consumption of a tobacco product including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, flavor enhancers or liquids used in electronic smoking devices or pipes. The term “tobacco product” does not include drugs, devices or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

### **SECTION III. PROHIBITION ON SALE**

No retailer shall sell or offer for sale any flavored tobacco product or display, market or advertise for sale in the City of Hartford any flavored tobacco product.

There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has:

1. Made a public statement or claim that the tobacco product imparts a taste or smell other than the taste or smell of tobacco;
2. Used text or images, or both, on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a taste or smell other than tobacco; or
3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a taste or smell other than tobacco.

### **SECTION IV. VIOLATIONS AND PENALTIES**

It is a violation for any retailer to fail to comply with the requirements of this ordinance. If a retailer is found to have violated this ordinance, the retailer shall be charged an administrative penalty as follows:

1. First violation. The Hartford Department of Health and Human Services shall impose a civil fine of at least five hundred dollars (\$500).
2. Second violation within thirty-six (36) months of a first violation. The Department shall impose a civil fine of at least seven hundred fifty dollars (\$750).
3. Third violation within twenty-four (24) months of any preceding violation. The Department shall impose a civil fine of at least one thousand dollars (\$1,000).

Each day of violation constitutes a separate offense. Failure to comply with any provision of this ordinance shall constitute grounds for the denial of, refusal to renew, suspension of, or revocation of any food, liquor, tobacco, or other business license issued by the city. Any fines collected under this ordinance shall be used for implementation and enforcement of the ordinance.

**SECTION V. ENFORCEMENT**

The Department of Health and Human Services and the Department of Developmental Services, through its licenses and inspections function, shall enforce the provisions of this ordinance. All tobacco retailers shall be subject to such compliance checks as shall be determined by said departments to be reasonable and necessary to obtain compliance with this ordinance.

**SECTION VI. SEVERABILITY**

If any portion of this ordinance, or its application to any circumstances, is held invalid, the remaining portions shall be considered severable, and shall be given effect to the maximum extent possible.

**SECTION VII. EFFECTIVE DATE**

This ordinance shall take effect ninety (90) days after its publication.



