

SUBSTITUTE NO. 1 TO ORDINANCE NO. 21-043

**AN ORDINANCE AMENDING CHAPTER 41 OF THE CITY CODE TO LIMIT
THE OUTDOOR ADVERTISING OF TOBACCO PRODUCTS**

**Rev. 1
#0087**

Sponsor:

**Council
Member
Darby**

WHEREAS, Council has a substantial interest in promoting the health and welfare of its citizens, especially youth and young adults within the City; and

WHEREAS, outdoor advertising is a unique and distinct medium which subjects the public to involuntary and unavoidable solicitation, and that children, simply by walking to school or playing in their neighborhood, are exposed daily to this advertising; and

WHEREAS, studies published in the Journal of the American Academy of Pediatrics have found that exposure to advertising may contribute significantly to childhood and adolescent obesity, poor nutrition, and cigarette and alcohol use; and

WHEREAS, the CDC also reported that In 2019, 36.5% of US high school youth reported currently using any tobacco product, including e-cigarettes with 6.0% of high school youth reporting they currently smoke cigarettes; and

WHEREAS, Exposure to tobacco advertising may be a bigger risk factor than having family members and peers who smoke; and

WHEREAS, the 1998 Master Settlement Agreement reached in November 1998 between the state Attorneys General of 46 states, including the State of Delaware, five U.S. territories, the District of Columbia and the four largest cigarette manufacturers in America imposes significant prohibitions or restrictions on advertising, marketing and promotional programs or activities; including bans or restrictions on transit advertising, most forms of outdoor advertising, including billboards, and product placement in media; and

WHEREAS, the Family Smoking Prevention and Tobacco Control Act passed in 2009, expressly permits the City to impose specific bans or restrictions on the time, place, and manner, of the advertising or promotion of any cigarettes; and

WHEREAS, council deems it appropriate to reduce the number of tobacco advertisements that children and youth are exposed to in their daily lives.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 41 of the City Code is hereby amended by the addition of the new Section 41-403 containing the underlined language to read as follows:

17-403. Cigarette advertising signs.

(a) General prohibition. No person may place any sign, poster, placard, device, graphic display, or other item that advertises cigarettes in any publicly visible location, including any outdoor billboard, side of a building, or freestanding sign.

(b) Exceptions.

(1) “Licensed premises” defined.

In this subsection, “licensed premises” means any business that sells cigarettes at wholesale and/or retail.

(2) Permitted placements – Identification of licensed premises.

(i) In general.

This section does not apply to any window or exterior wall sign of a licensed premises that meets all of the following criteria:

(A) the sign is intended to identify the licensed premises, by containing its name, slogan, or logo;

(B) the sign covers no more than 15% of the window or exterior wall area on which it is displayed; and

(C) the licensed premises has no other window or exterior wall sign along the same street frontage.

(ii) Measurement methodology.

For purposes of this paragraph

(A) a “window” comprises all the glass panes within the main frame of the window area; and

(B) the maximum 15% coverage is calculated based on the total area within the external window frame.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First ReadingAugust 26, 2021
Second ReadingAugust 26, 2021
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2021.

Mayor

SYNOPSIS: This ordinance limits the outdoor advertising of tobacco products as permitted by the Family Smoking Prevention and Tobacco Control Act of 2009.

FISCAL IMPACT STATEMENT: There is no expected fiscal impact from this legislation. Any impact would come from costs associated with enforcement.

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