

ORDINANCE NUMBER 1902

**AN ORDINANCE TO PROHIBIT THE SALE OF CIGARETTES
AND OTHER TOBACCO PRODUCTS FROM VENDING
MACHINES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

SECTION 1. DEFINITIONS

For the purposes of this section the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) *City* means the City of Vestavia Hills, Alabama, a municipal corporation.
- (2) *Employee* means any person who is employed by an employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.
- (3) *Employer* means any person which employs one or more persons.
- (4) *Minor* means any individual who is less than nineteen (19) years of age.
- (5) *Owner* shall mean and include the lessee, sub-lessee, assignee, part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, managing agent, officers of the corporation or other person having the right of ownership or possession or the right to sell, rent or lease any real property.
- (6) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

- (7) *Tobacco accessories* means any cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other items designed primarily for the smoking or ingestion of tobacco products.
- (8) *Tobacco products* means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, smoking tobacco and smokeless tobacco.
- (9) *Tobacco vending machines* includes any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, paper bills, trade checks, slugs or credit cards.

SECTION 2. ENFORCEMENT

The provisions of this section are enforceable by any duly authorized municipal code enforcement officer, revenue examiner, police officer or as otherwise allowed by law.

SECTION 3. SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS FROM VENDING MACHINES PROHIBITED.

1. No person shall locate, install, keep, maintain or use, or permit the location, installation, keeping maintenance or use on his, her or its premises of any tobacco vending machine used or intended to be used for the purpose of selling or disposing of any tobacco products or tobacco accessories there from.
2. Any tobacco vending machine in used on the effect date of this Ordinance shall be removed before December 31, 2002.

SECTION 4. VIOLATIVE TOBACCO VENDING MACHINES

Any tobacco vending machine not removed from the premises or converted to a permissible use within the time limit set forth by Subsection 3(2) shall be deemed to be a public nuisance, and may be abated by the city in an appropriate legal proceeding.

SECTION 5. VIOLATION; PENALTY

Any person, firm or corporation violating any provisions of this section shall be deemed guilty of a misdemeanor or upon conviction there, shall be punished as stated below. Each day, such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

First offense \$250.00

Second offense \$500.00

Third offense \$500.00

In addition to the fines set out above, for the third and any subsequent violations of this ordinance, the City Council shall conduct a public hearing wherein the violating party shall be examined as to the fitness of the violator continuing to do business within the City. At the conclusion of said public hearing, the City Council may revoke the business license of the violator to conduct business in the City.

Repeated violations may be the basis for a review of and revocation of presently outstanding business licenses issued by the city.

SECTION 6. CONSTRUCTION WITH OTHER LAWS

Nothing in this section excuses noncompliance with any state, federal or local law or any rule or regulation which prohibits tobacco vending machines.

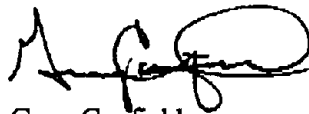
SECTION 7. SEVERABILITY

If any portion of this section shall be held unconstitutional, invalid, or unenforceable, such holdings shall not affect the remaining portions nor render the remaining portions invalid, and to that end the provisions hereof are declared to be severable.

SECTION 8. EFFECTIVE DATE

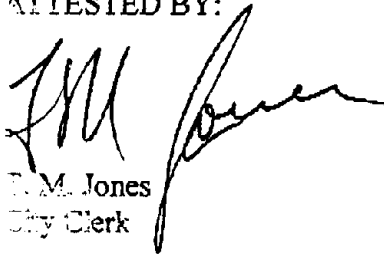
The provision of the ordinance shall become effective immediately upon the passage and approval thereof by the City Council of the City of Vestavia Hills, Alabama and the publication and/or posting thereof as required by Alabama law.

DONE, ORDERED, APPROVED, and ADOPTED this the 19th day of November, 2001.



Greg Canfield
Council President

ATTESTED BY:



T. M. Jones
City Clerk

APPROVED BY:




Charles A. McCallum
Mayor

CERTIFICATION:

I, T. M. Jones, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 1902 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 19th day of November, 2001, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Richard M. Scrushy Public Library, Vestavia Hills Food World and Vestavia Hills Recreational Center this the 17th day of February, 2002.


T. M. Jones
City Clerk