

## Chapter 5-09

### RETAIL TOBACCO BUSINESS

#### Sections:

#### 5-09-01 DEFINITIONS

- 5-09-02 NOTICE, MINORS PROHIBITED IN RETAIL TOBACCO BUSINESS
- 5-09-03 HOURS OF OPERATION
- 5-09-04 OFFICERS MAY EXAMINE PREMISES
- 5-09-05 PENALTY
- 5-09-06 SEPARABILITY

#### Section 5-09-01 DEFINITIONS

- A. Business  
“Business” means any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities.
- B. Distribute  
“Distribute” means to give, deliver, sell, offer to give, offer to deliver, offer to sell or cause any person to do the same or hire any person to do the same.
- C. Equipment or Material Used for the Consumption of a Tobacco Product  
“Equipment or Materials Used for the Consumption of Tobacco” means any product designed to be or used to hold any tobacco product for consumption, including but not limited to cigarette papers, holders, pipes, smokeless tobacco pouch or sachet, or snuff tube or spoon.
- D. Minor  
“Minor” means a person less than eighteen (18) years of age.
- E. Photographic identification  
“Photographic identification” means state, district, territorial possession, provincial, national or other equivalent government driver’s license, identification card or military card, in all cases bearing a photograph and a date of birth, or a valid passport.
- F. Retail Tobacco Business  
“Retail tobacco business” means a business which during the normal course of business primarily distributes any tobacco product or provides any equipment or material used for the consumption of tobacco and which permits smoking on premises owned, operated, or used by the business as a smoking area, whether indoors or outdoors, during any portion of its hours of operation within the last thirty (30) days.
- G. Seller  
“Seller” means the person who physically sells or distributes tobacco products.
- H. Smoking  
“Smoking” includes the possession of any lighted tobacco product in any form.

- I. Smoking area  
“Smoking area” means any area used by the business in which smoking or any other method of consumption of any tobacco product is permitted.
- J. Tobacco product  
“Tobacco product” means any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco.
- K. Unannounced inspection  
“Unannounced inspection” means any inspection of a retail tobacco business by a law enforcement agency, whether random or not, with or without the assistance of a minor, to monitor compliance of this ordinance.

**Section 5-09-02 NOTICE, MINORS PROHIBITED IN RETAIL TOBACCO BUSINESS**

- A. Every retail tobacco business shall keep a sign conspicuously posted over or on each entrance to the retail tobacco business, giving public notice that persons under eighteen (18) years are restricted from admittance to the premises and shall not enter, remain or loiter in or about the premises of any retail tobacco business.
  - 1. Entrances to any retail tobacco business must contain the following words in plainly visible lettering of at least one (1) inch in height: “Admittance of persons under the age of eighteen (18) years is prohibited by law.” Such sign must be placed conspicuously over or on the door of each entrance to the licensed premises and must be clearly visible from the exterior of the retail tobacco business.
  - 2. Any outdoor facilities of a retail tobacco business in which equipment or materials used for the consumption of tobacco is furnished or serviced, and from which tobacco is consumed must be identified by the placement of one or more continuous physical barriers with a minimum height of three (3) feet and along the outside of which at intervals of no less than ten feet must be signs affixed at the three foot level containing the following words in lettering of at least one (1) inch in height: “Minors are prohibited from loitering within ten feet of this smoking area” and “Admittance of persons under the age of eighteen (18) years is prohibited by law.” Access of the public to and from such outdoor facility is to be through the building housing the retail tobacco business abutting or contiguous to the outdoor facility.
- B. Every retail tobacco business shall employ a person to sit or stand at each entrance to the retail tobacco business and such person shall demand photographic identification from each person desiring entrance to the retail tobacco business. No person under the age of eighteen (18) years shall be allowed entrance to the retail tobacco business, except as provided in Boise City Code 6-01-04.
- C. It is unlawful for a retail tobacco business to employ persons under the age of eighteen (18) years in any capacity, including but not limited to custodians, DJs, entertainers,

musicians, singers, or sellers or distributors of tobacco products or equipment or material used for the consumption of a tobacco product.

- D. It is unlawful for a retail tobacco business to sell, furnish, lend, rent, or otherwise permit any person under the age of eighteen (18) years to purchase, borrow, use, or possess any equipment or materials used for the consumption of tobacco.

**Section 5-09-03 HOURS OF OPERATION**

No retail tobacco business shall permit any customer to enter or remain on the business premises from 2:00 a.m. to 6:00 a.m. It shall be the duty of every person who owns, manages, or is employed at or upon the premises operated or used by a retail tobacco business to lock up and keep locked up in a locked room or cabinet all open tobacco products, stow on shelving or cabinets any unopened or sealed packages of tobacco products, to extinguish all smoking, cease any other consumption of tobacco products, and remove from use any equipment used for the consumption of a tobacco product owned or used by the retail tobacco business during the hours and at such times set forth in this section. Any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor.

(6747, Amended, 08/25/2009)

**Section 5-09-04 OFFICERS MAY EXAMINE PREMISES**

Any law enforcement officer shall have the right at any time to make an examination of the premises of any retail tobacco business in order to ensure compliance with any of the provisions of this ordinance. Any person who interferes with a law enforcement officer's exercise of the right to examine the premises of a retail tobacco business is guilty of a misdemeanor and any other offenses committed while interfering, obstructing, or delaying the officers. Any person on the premises of a retail tobacco business who refuses admittance to a law enforcement officer is guilty of a misdemeanor.

**Section 5-09-05 PENALTY**

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both.

**Section 5-09-06 SEPARABILITY**

If any clause, sentence, paragraph, section, or any part of this act, shall be declared and adjudged to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect, invalidate, or nullify the remainder of this ordinance.

(6727, Enacted, 07/07/2009)