

CITY OF LUNA PIER
ORDINANCE # 181

AN ORDINANCE TO PROHIBIT SALE OF TOBACCO TO MINORS
AND POSSESSION OF TOBACCO BY MINORS

The City of Luna Pier ordains:

Section 1 Title.

This ordinance shall be referred to as the "Luna Pier Tobacco Control Act."

Section 2 Code and Amendments and Revisions adopted.

- (A) A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense. Pursuant to a probation order, the court may require a person who violates this section to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:
- (1) For the first violation, the court may order the person to do one of the following:
 - (a) Perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility.
 - (b) Participate in a health promotion and risk reduction program, a
 - (2) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.
 - (3) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

(B) Section 4. Sale of Tobacco to Minors

No person shall sell, give or furnish any cigarette, cigar, chewing tobacco, tobacco snuff or tobacco in any other form to a person under eighteen years of age.

(C) POSTING OF TOBACCO AGE WARNING SIGNS.

- (1) A person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties.

- (2) If the sign required under this section is more than six feet from the point of sale, it shall be five and one-half inches by eight and one-half inches in size, and the statement required under this section shall be printed in 36-point boldface type. If the sign required under this section is six feet or less from the point of sale, it shall be two inches by four inches in size, and the statement required under this section shall be printed in 20-point boldface type.

(3) AFFIRMATIVE DEFENSE: REBUTTAL.

- (1) It is an affirmative defense to a charge pursuant to Section 684.03 that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff or other tobacco products to a person under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described herein shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. This notice shall be served not less than 14 days before the date set for trial.

- (2) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in this section shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than seven days before the date set for trial, and shall contain the name and address of each rebuttal witness.

- (4) Penalty for Sale of Tobacco to a minor

Any individual or corporation who violates this section will be guilty of a misdemeanor punishable by a fine of \$500.00 and or 93 days in jail.

Section 5 Notice to be Published.

The City of Luna Pier clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships and Villages and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

Section 6 Severability.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7 Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

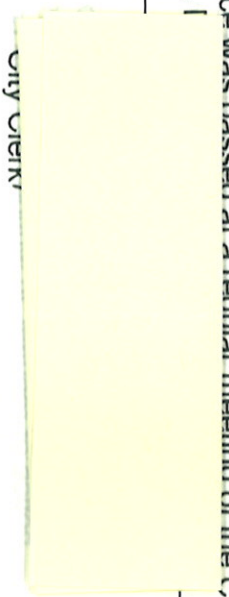
Section 8 Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 9 Effective Date.

This Ordinance shall become effective twenty (20) days after final passage and publication.

I hereby certify that this ordinance was passed at a regular meeting of the City Council of the City of Luna Pier, I _____ the _____
_____ day of _____ March _____



CITY CLERK

Published: March 29, 2005

Effective Date: April 18, 2005