

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on July 14, 2021, at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street.

It was noted that a quorum was present as follows:

P	D. Dwayne Tuggle	A	Kenneth G. Bunch
P	Rachel A. Carton	P	Sharon W. Turner
A	Kenneth S. Watts	P	Janice N. Wheaton

Also present were the following staff members:

Sara Carter	Town Manager	Vicki K. Hunt	Clerk of Council
W. Thomas Berry	Town Attorney	Bobby Shiflett	Chief of Police
Tracie Morgan	Office Manager/Treasurer	Charles Thompson	Utilities Maintenance Foreman
Gary Williams	Director of Plants	Becky L. Cash	Lead Water Operator

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Sharon W. Turner.

Mrs. Carton made a motion which was seconded by Mrs. Turner to approve a resolution of the Town Council of the Town of Amherst naming a park located on 7.1 acres at the end of Scotts Mill Road in the Town of Amherst, "Old Mill Park," and thanking and honoring Tristen May for his contribution and his imagination in naming the park "Old Mill Park."

There being no discussion, the motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

Mayor Tuggle read and presented the resolution to Tristen May honoring him for his contribution. A copy of the resolution is attached to and made a part of these minutes.

Mayor Tuggle opened the floor for citizen comment.

Ruth Warner came forward to speak on behalf of herself and family in favor of crisis intervention training for law enforcement specific to mental health disorders and offered thanks to Officer Caleb Martin and Chief Shiflett for Officer Martin's professionalism and dignity that he afforded to Jonathan Warner during an encounter.

There being no one else listed to speak on the citizen comment sign-in sheet or otherwise, no comments were made.

Ms. Turner made a motion that was seconded by Ms. Wheaton to approve the minutes from the June 9, 2021, and June 24, 2021, meetings.

There being no discussion, the motion as to the June 9, 2021, and June 24, 2021, minutes carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

After a report by Town Manager Carter, Ms. Turner made a motion that was seconded by Ms. Carton, to approve the purchase of a second 2021 Ford Police Interceptor in the amount of \$34,845.03 from Sheehy Ford of Richmond through the Sheriff's Association contract, and an additional amount of \$8,468.46 for vehicle electronics from Tidewater Fleet, as recommended by staff.

There being no discussion, the motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

After a report by Town Manager Carter and Director of Plants Williams, Ms. Carton made a motion that was seconded by Ms. Wheaton, to approve the purchase of Rosemount flow meter, stainless steel enclosure, and start up/site visit/calibration, in the amount of \$6,584.00 from Clearwater, Inc., to measure flow between the upper and lower portions of the wastewater treatment plant for reporting and monitoring purposes, as recommended by staff.

After discussion, the motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

After a report by Town Manager Carter, by consensus a public hearing will be held on August 11, 2021, on the proposed disposition/sale of real estate described as Pump Station Lot between Whitehead Drive and Maple Lane on approximate one acre, identified as Tax Map # 96A4 9 F B, and Fee-Simple Road Lot from Whitehead Drive to Pump Station Lot, in accordance Virginia Code § 15.2-1800(B.), as recommended by staff.

After a report by Town Manager Carter and Utilities Maintenance Foreman Thompson on purchase a bucket truck or boom lift for Maintenance staff, staff were directed to provide a final proposal to counsel for approval of a boom lift as recommended by staff.

Town Manager Carter and Office Manager/Treasurer Morgan gave brief reports on a proposed amendment to Chapter 8 of the Town of Amherst Code, creating a new Article IX Cigarette Tax. If approved, the new article would levy an excise tax equivalent to \$0.27 per package containing 25 or fewer cigarettes. The new article also provides definitions, methods of collection, stamp requirements, violations and penalties, and other provisions related to the levy of this tax. Staff recommends adoption of the proposed amendment with an effective date of October 1, 2021.

After discussion, Ms. Carton made a motion that was seconded by Ms. Wheaton to approve the proposed amendment to Chapter 8 of the Town of Amherst, creating a new Article IX Cigarette Tax, levying an

excise tax equivalent to \$0.22 per package containing 25 or fewer cigarettes, effective October 1, 2021, as recommended by staff.

There being no further discussion, the motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

A copy of the ordinance is attached to and made a part of these minutes.

Ms. Turner gave a report on behalf of the Town and County Projects Committee on its discussion of dissolution and disposition of assets of the Amherst Life Saving Crew with County representatives and members of the Amherst Life Saving Crew. Discussion by Council was deferred to August 11, 2021. Town Attorney Berry was directed to provide a legal opinion on the matter for review no later than August 4, 2021.

There being no one listed to speak on the citizen comment sign-in sheet or otherwise, no comments were made.

At 7:45 P.M. Ms. Carton made a motion as follows: I move that the Town Council convene in closed session for discussion or consideration of the disposition of publicly held real property in the vicinity of Whitehead Drive in the Town of Amherst, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body per the exemption at §2.2-3711A.3 of the Code of Virginia.

The motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

Mayor Tuggle recessed the meeting at 7:45 PM.

Mayor Tuggle reconvened the meeting in closed session at 7:49 PM.

It was noted that a quorum was present as follows:

P	D. Dwayne Tuggle	A	Kenneth G. Bunch
P	Rachel A. Carton	P	Sharon W. Turner
A	Kenneth S. Watts	P	Janice N. Wheaton

At 8:03 P.M. Ms. Carton made the following motion: I move that the Town Council adjourn the closed session and enter open session and certify that to the best of each councilors' knowledge that (i) only public business matters lawfully exempted from open meeting requirements under Title 2.2, Chapter 37 and §15.2-2907 of the Code of Virginia and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered in the session.

The motion carried 3-0 via the roll call method as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Absent
Rachel A. Carton	Aye	Sharon W. Turner	Aye
Kenneth S. Watts	Absent	Janice N. Wheaton	Aye

There being no further business, the meeting adjourned at 8:04 P.M., until August 11, 2021, at 7:00 p.m. on motion of Ms. Turner seconded by Ms. Carton.

D. Dwayne Tuggle, Mayor

Attest: _____
Clerk of Council

FOR APPROVAL

Resolution
of the
Town Council of the Town of Amherst

WHEREAS the Town of Amherst is developing an unnamed park on 7.1 acres at the end of Scotts Mill Road;

WHEREAS Tristen May recently completed second grade at Amherst County Elementary School;

WHEREAS Tristen May is the great-grandson of William and Patricia Wydner who were the previous owners and operator of the mill located at 140 Union Hill Road, most recently known as Amherst Milling Co;

WHEREAS Tristen May's family used and continues to use the park's land for fishing and playing, and are happy to be able to share it with others;

WHEREAS Town Council of the Town of Amherst conducted a park naming contest at Amherst Elementary School;

WHEREAS Tristen May, with his contribution of "Old Mill Park," was named the winner of the park naming contest;

WHEREAS the Town Council of the Town of Amherst wishes to acknowledge and thank Tristen May for his contribution and his imagination in naming the park "Old Mill Park."

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does, on this date, acknowledge the contribution to the quality of life of the Town given by Tristen May; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Amherst does, on this date, declare that the park shall be named "Old Mill Park;" and,

BE IT FURTHER RESOLVED that the Clerk of Council of the Town of Amherst, on behalf of its Mayor and Council is ordered to deliver an original copy of this Resolution to Tristen May as a token of the Council's deep appreciation for his contribution to our community and that this resolution be spread upon the minute books of the Town Council of the Town of Amherst as a tribute to a

Good Neighbor and a Friend of the Town of Amherst

Adopted July 14, 2021

D. Dwayne Tuggle, Mayor

Attest:

Clerk of Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY ADDING SECTION 8.365 THROUGH 8.381 OF CHAPTER 8, ARTICLE IX OF THE TOWN CODE, THE AMENDED CODE REFERRING TO TAXATION

Be it Ordained by the Council of the Town of Amherst:

That Sec. 8.365 through Sec. 8.381 of the Code of the Town of Amherst are hereby added to read as follows:

ARTICLE IX. CIGARETTE TAX

Sec. 8-365. Definitions.

The following words and phrases, when used in this article, shall, for the purposes of this article, have the following respective meanings except where the context clearly indicates a different meaning:

Carton means 10 packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

Cigarette means any product that contains nicotine, is intended to be burned and produces smoke from combustion under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is burned and functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

Dealer means every manufacturer, jobber, wholesale dealer, or other person who supplies a seller with cigarettes.

Pack means a package containing either 20 or 25 cigarettes.

Person means any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

Purchaser means every person to whom title to any cigarettes is transferred by a seller within the jurisdictional limits of the town.

Sale means every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes is transferred from the seller to any other person within the jurisdictional limits of the town.

Seller means every person who transfers title to any cigarettes or in whose place of business title to any cigarettes is transferred, within the jurisdictional limits of the town, for any purpose other than resale.

Stamp means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp that will effectuate the purposes of this chapter, including but not limited to decalcomania and metering devices.

Treasurer means the treasurer of the town and any of his or her duly authorized deputies and agents.

Use means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it does not include the sale of cigarettes in the regular course of business.

(Ord. No.)

Sec. 8-366. Registration required.

Each distributor, wholesaler, vendor, retailer, or other person selling, storing, or possessing cigarettes within or transporting cigarettes within or into the town for sale or use shall first register with the treasurer of the town. The application form, which shall be supplied upon request, shall require such information relative to the nature of the business engaged in by the applicant as the treasurer deems necessary for the administration and enforcement of this article. Any applicant whose place of business and residence is outside the town shall automatically, by filing his application, submit himself to the town's legal jurisdiction and appoint the town administrator as his agent for any service of lawful process. A copy of any such process served on the town administrator shall be sent forthwith by registered mail to the distributor, wholesaler, vendor, retailer, or other person.

(Ord. No.)

Sec. 8-367. Levied; amount.

There is hereby levied and imposed by the town, upon each and every sale of cigarettes, an excise tax of one and ten hundredths (1.10) cents per cigarette sold within the town (i.e., twenty-two (22) cents per pack), the amount of such tax to be paid by the seller, if not previously paid, in the manner and at the time provided for in this article.

(Ord. No.)

Sec. 8-368. Method of payment.

- (a) The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp or stamps, of the proper denominational or face value, to each and every package of cigarettes sold within the town, in the manner and at the time or times provided for in this article. Every dealer and every seller in the town, once registered, shall have the right to buy such stamps from the town treasurer and to affix the same to packages of cigarettes as provided in this article.
- (b) The treasurer may permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of the stamps upon original packages by the use of meter machines, in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and may prescribe and enforce the necessary regulations setting forth the method to be employed and the condition to be observed in the use of such meter machines.

(Ord. No.)

Sec. 8-369. Preparation and sale of stamps.

For the purpose of making stamps available for use, the treasurer shall prescribe, prepare, furnish and sell stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this article. Any local tax stamp or meter impression required to be used to evidence payment of the tax shall be of the same stamp technology that is used or required by the Commonwealth for the state cigarette tax stamp.

In the sale of such stamps, the town treasurer shall allow a discount of one-tenth (0.10) of a cent per cigarette (i.e., two (2) cents per pack) to cover the costs which will be incurred in affixing the stamps to packages of cigarettes. In the event the printing by an authorized meter machine is used in lieu of gummed stamps, there shall be allowed a discount of six (6) percent of the denominational or face value of the imprints of such stamps so printed by such meter machine to cover the costs incurred in printing such imprints.

(Ord. No.)

Sec. 8-370. General duties of dealers and sellers with respect to stamps.

- (a) Every dealer in cigarettes is hereby required and it shall be his duty to purchase such stamps, at the office of the town treasurer, as shall be necessary to pay the tax levied and imposed by this article, and to affix or cause to be affixed a stamp or stamps of the monetary value prescribed by this article to each package of cigarettes prior to delivery or furnishing of such cigarettes to any seller. Nothing herein contained shall preclude any dealer from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.
- (b) Every seller shall examine each package of cigarettes prior to exposing the same for sale, for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon, as provided by this article. If, upon such examination, unstamped or improperly stamped packages of cigarettes are discovered, the seller, where such cigarettes were obtained from a dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to or imprint upon such unstamped or improperly stamped packages the proper amount of stamps, or shall replace such packages with others to which stamps have been properly affixed or imprinted thereon.
- (c) Should a seller obtain or acquire possession of, from any person other than a dealer, any unstamped or improperly stamped cigarettes, such seller shall forthwith, before selling or offering or exposing such cigarettes for sale in the town, purchase and affix or cause to be affixed to such packages of cigarettes the proper stamps, or the markings of a meter machine, covering the tax imposed by this article.
- (d) In the event any seller elects to purchase and affix stamps or imprints of a meter machine, before offering cigarettes for sale, any dealer delivering and furnishing cigarettes to such seller shall not be required to purchase and affix such stamps or imprints to such cigarettes so sold or furnished; provided that any such dealer shall, on the day after such delivery and furnishing, file with the treasurer a copy of the delivery memorandum showing the name and address of the seller and the quantity and type of cigarettes so delivered and furnished.

(Ord. No.)

Sec. 8-371. Visibility of stamps or meter markings.

Stamps or the printed markings of a meter machine shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.(Ord. No.)

Sec. 8-372. Altering design of stamps.

The treasurer may, from time to time, and as often as he or she may deem advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

(Ord. No.)

Sec. 36-373. - Meter machines.

The treasurer is authorized to permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of stamps upon original packages by the use of meter machines in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and to prescribe and enforce the

necessary regulations setting forth the method to be employed and the conditions to be observed in the use of such meter machines.

Sec. 8-374. Refund for unused stamps or meter imprints.

- (a) Should any person, after acquiring from the town treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use thereof, or should any such stamps become mutilated and unfit for use, other than by cancellation as provided in this article, such person shall be entitled to a refund of the denominational or face amount of any stamps so acquired and not used by him, without penalties or additional fees, upon presenting such stamps to the treasurer and furnishing the treasurer with an affidavit showing, to his satisfaction, that such stamps were acquired by such person and have not in any manner been used and the reason for requesting such refund. In the case of any authorized meter machine, should any imprints of such machine theretofore paid for not be used, such person shall, upon furnishing the treasurer with a similar affidavit, be entitled to a refund of the denominational or face amount thereof, without penalties or additional fees.
- (b) All refunds for unused and mutilated stamps and for nonuse of imprints of stamps by meter machines provided for under this section are hereby authorized to be made on vouchers approved by the treasurer and, when made, the same shall be charged against the sums collected for the sale of such stamps and for the use of such imprints.

(Ord. No.)

Sec. 8-375. Seizure and sale of unstamped cigarettes.

- (a) Whenever the treasurer shall discover cigarettes in quantities of more than six (6) cartons within the town which are subject to the tax imposed by this article and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax shown thereon by the printed markings of an authorized meter machine, as this article requires, such cigarettes shall be conclusively presumed for sale or use within the town and the treasurer may forthwith seize and confiscate such cigarettes, if:
 - (1) They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the cosigner or seller and of the cosigner or purchaser, and the brands and quantity of cigarettes so transported; or are in transit and accompanied by a bill of lading or other document which is false or fraudulent in whole or in part; or
 - (2) They are in transit and are accompanied by a bill of lading or other documents indicating:
 - a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid, and unless the tax of the state or district of destination has been paid and the said products bear the tax stamp of that state or district; or
 - b. A consignee or purchaser in the Commonwealth but outside the town who does not possess a Virginia sales and use tax certificate, a Virginia retail tobacco license and where applicable, both a business license and retail tobacco license issued by the local jurisdiction of destination; or
 - (3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the treasurer that those cigarettes are temporarily within the town and will be sent to consignees or purchasers outside the town in the normal course of business.
- (b) All cigarettes seized and confiscated according to subsection (a) of this section shall thereupon be deemed to be forfeited to the town and may be sold within a reasonable time thereafter, after proper notice of such

seizure is given to the known holders of property interests in the cigarettes. Such notice shall be given to known holders of property interests, if any, by certified mail and by written notice posted on the bulletin board of the court house of the town at least seven (7) days before the date of sale. Such notice shall contain the time and place at which the sale is to occur and procedures for administrative appeal as well as affirmative defenses which may be asserted by such holders. All moneys collected under this section shall be paid to the town treasurer and treated as other taxes collected under this article. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

(Ord. No.)

Sec. 8-376. Seizure and sale of coin-operated vending machines and counterfeit stamp or impression devices.

(a) Any coin-operated vending machine, in which any cigarettes are found, stored or possessed bearing a counterfeit or false tobacco tax stamp or impression or any unstamped cigarettes, or any cigarettes upon which the tax has not been paid, may be declared contraband property and be subject to confiscation and sale as provided in section 8-180(b). When any such vending machine is found containing such cigarettes, it shall be presumed that such cigarettes were intended for distribution, sale or use therefrom. In lieu of immediate seizure and confiscation of any vending machine used in an illegal evasion of the tax, it may be sealed by appropriate enforcement authorities to prevent continued illegal sale or removal of any cigarettes, and may be left unmoved until other civil and criminal penalties are imposed or waived. Notice requirements shall be the same as if the machine had been seized. Such seal may be removed and the machine declared eligible for operation only by authorized enforcement authorities. Nothing in this section shall prevent seizure and confiscation of a vending machine at any time after it is sealed.

(b) Any counterfeit stamps or counterfeit impression devices found may also be seized and confiscated.

(Ord. No.)

Sec. 8-377. Dealers' and sellers' records.

It shall be the duty of every dealer and seller to maintain and keep, for a period of two (2) years, such records of cigarettes sold and delivered by him as may be required by the town treasurer and to make all such records available for examination by such town treasurer, upon demand, at any and all reasonable times.

(Ord. No.)

Sec. 8-378. Rules and regulations for enforcement and administration of article; examination of books, records, etc.

(a) The town treasurer may prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps and to all other matters pertaining to the administration and enforcement of the provisions of this article. It shall be unlawful for any person to fail, neglect or refuse to comply with such rules and regulations.

(b) The town treasurer may examine books, records and cigarette inventories relevant to the sale of cigarettes in this town on the premises where the cigarettes are stored, displayed or sold or elsewhere in this town. Every agent, seller or dealer shall provide access to the town treasurer for such examination.

(Ord. No.)

Sec. 8-379. Tax is in addition to other taxes.

The tax levied and imposed by this article shall be in addition to all other taxes of every kind levied and imposed by any other ordinance or law.

(Ord. No.)

Sec. 8-380. Violations of article—Generally.

- (a) Any person violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. In addition, any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article shall be required to pay a penalty in the amount of fifty (50) percent and interest not to exceed three quarters of one percent per month upon any tax found to be overdue and unpaid. Conviction and payment of a fine for such violation shall not relieve any person from the payment of any tax imposed by this article.
- (b) Each violation of, or noncompliance with, any of the provisions of this article shall be and constitute a separate offense and shall subject every person convicted thereof to the penalties prescribed.

(Ord. No.)

Sec. 8-381. Same—Prohibited acts enumerated.

It shall be unlawful and a violation of this article for any person:

- (1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof; or for any dealer or seller, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon him under the provisions of this article or to fail or refuse to obey any lawful order which the treasurer may issue under this article.
- (2) To falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of any meter machine or to procure or cause to be made, forged, altered or counterfeited any such stamp or printed markings of a meter machine or to knowingly and willfully alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps or printed markings of a meter machine.
- (3) To sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes.
- (4) To reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been theretofore paid, have been removed.
- (5) To remove from any package any stamp or the printed markings of a meter machine with intent to use or cause the same to be used after the same have already been used, or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps or printed markings of a meter machine to any person, or to reuse any stamp or printed markings of a meter machine which had theretofore been used for evidence of the payment of any tax prescribed by this article, or, except as to the town treasurer, to sell or offer to sell any stamps or printed markings of a meter machine provided for in this article.

(Ord. No.)

Sec. 8-382. Same—Presumption of violation by seller.

- (a) In the event any package of cigarettes is found in the possession of a seller, without the proper stamps being affixed thereto or without authorized printed markings of a meter machine thereon, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding forty-eight (48) hours and that he has not offered the same for sale, the presumption shall be that such package is being kept by such seller in violation of the provisions of this article and shall subject him to the penalties provided for such violation.
- (b) Any cigarettes placed in any coin-operated vending machine located within the town shall be presumed for sale within the town. Any vending machine located within the town containing cigarettes upon which the stamp has not been affixed or containing cigarettes placed so as not to allow visual inspection of the stamp through the viewing areas as provided for by the vending machine manufacturer shall be presumed to contain untaxed cigarettes in violation of this article.
- (c) Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the treasurer. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes shall be subject to civil and criminal penalties herein provided.
- (d) In lieu of seizure, the treasurer may seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of the seal from a vending machine by any unauthorized person shall be in violation of this article. Nothing in this article shall prevent the seizure of any vending machine at any time after it is sealed.
- (e) All cigarette vending machines shall be plainly marked with the name, address and telephone number of owner of the machine.

(Ord. No.)

That this Ordinance shall be effective on the 1st day of October, 2021.

This ordinance was adopted on the 14th day July, 2021.

D. Dwayne Tuggle, Mayor

ATTEST:

Clerk of the Council