

DEPARTMENT GENERAL ORDER 99-59

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 96-3

DATE: November 1, 1999

TOBACCO ORDINANCE ENFORCEMENT

I. PURPOSE.

To establish guidelines in regard to enforcement of the City of Clayton Tobacco Ordinance, Number 5255, "Possession, Sale, Use and Distribution of Tobacco Products".

II. DEFINITIONS.

Possession - An act, state, or fact of having, holding, or controlling as owner.

School building - The entirety of any building in any part of which student education or school sponsored recreation, assembly, or activity takes place.

Smoking - The combustion of any cigarette, cigar, or other form of tobacco in any manner or form.

III. GENERAL.

All persons seventeen (17) and under, on determination that they are in violation of the possession portion of this ordinance, for either their first or second offense, will have the opportunity to attend a "Smoking Awareness" class, to be provided by the Community Services Unit of the Police Department. This will be in lieu of any referral to the City of Clayton Municipal Court.

In the event a person successfully completes the class, then no referral to the court will be made. However, should a person elect not to attend a "Smoking Awareness" class or fails to successfully complete same, the case shall automatically be referred to Municipal Court.

If the case is referred to the court, the Municipal Court will retain the discretion to mandate attendance by the violator to the “Smoking Awareness” course or otherwise order other penalties.

All persons charged with violation of the Tobacco Ordinance must decide whether or not they will attend the program, if eligible, prior to being released from police custody. In the case of a juvenile, the decision will be made by a parent, guardian, or other family member on their behalf. The apprehending officer will then advise the violator that they will be notified by mail of the date and time of the class.

A police report will be initiated in regard to each incident, regardless of whether a violator elects to attend class or is referred to court. The “Tobacco Ordinance Violation” form will be used by sworn personnel in these type incidents.

IV. VIOLATIONS ON SCHOOL PROPERTY.

A. Violations When School is in Session

In the event a student is observed to be in violation of the Tobacco Ordinance, by either a police officer or school official, while on Clayton School District property, the student shall be informed of the violation and immediately conveyed to a pre-determined office within the school.

If the violator is a juvenile, the parent/guardian shall be contacted and advised of the option for their son/daughter to attend a “Smoking Awareness” class or be referred to Municipal Court. The juvenile will then be released to the custody of school personnel. Should the juvenile student be ineligible for, or the parent/guardian will not approve their attendance at an awareness class, the case shall be referred to the City of Clayton Municipal Court for adjudication.

Students who are seventeen (17) years or older will be allowed to make a decision on voluntary attendance at a “Smoking Awareness” class and then be released at the scene. A summons should be issued if the student is ineligible for, or chooses not to attend, an awareness class.

B. Violations After School

Violators who are juveniles will be returned to this agency, at which time a parent/guardian will be notified. The juvenile may then be released to said parent or guardian following their decision in regard to their son/daughter attending a “Smoking Awareness” class, if eligible. Should the parent/guardian decline sending their child to an awareness class, the case will be referred to Municipal Court.

Violators who are seventeen years old or older, and who are not eligible for,

or elect to attend a “Smoking Awareness” class, will be issued a summons and released at the scene.

C. Non-Student on School Property

When a person is observed to be in violation of the Tobacco Ordinance on school property, and the person is not a student of the school, the same procedure shall be followed as outlined in Section II, Subsection B.

In those cases where such a violator may be seventeen years old or older, prior to the officer releasing same, they shall ascertain if the person has a legitimate reason for being on school property.

V. VIOLATIONS OTHER THAN SCHOOL PROPERTY.

Violations of the Tobacco Ordinance occurring outside of school property shall be handled the same as violations during non-school hours as provided in Section II, Subsection B, except as follows:

Should a violation of the Tobacco Ordinance occur during school hours, when school is in session, and the violation occurs in close proximity to the school the violator attends, the officer will return the student to the school. School officials will then immediately attempt to contact a parent or guardian. The parent/guardian will be advised of the option for their son/daughter to attend a “Smoking Awareness” class or have the case referred to Municipal Court. If a parent or guardian can be contacted, a decision must be made on the two possible options. If a parent or guardian cannot be contacted, the student will be released to a school official. The juvenile officer will subsequently contact the parent or guardian, inform them of the ordinance violation and of the various options open to them.

VI. RECORDKEEPING.

It shall be the responsibility of the Juvenile Officers assigned to the Criminal Investigations Division to keep and maintain accurate records on the individuals charged, the number of times they have been charged, attendance/completion of the voluntary "Smoking Awareness" classes, and referrals to the court. Information regarding persons who have elected to attend the awareness program will be forwarded to the department's Juvenile Officers who shall not only maintain a separate file for such type cases, but further separate juvenile files from adult offenders.

BY ORDER OF:

RICHARD T. MORRIS
Chief of Police

RTM:dld

CALEA Reference: 44.1.1/44.2.1/44.2.2