

CHAPTER 120: TOBACCO

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§ 120.01 DEFINITIONS.

As used in this chapter:

DISTRIBUTE. To give, sell, deliver, dispense or issue or offer to give, sell, deliver, dispense or issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

LICENSEE. Any person obtaining a tobacco product retailer's license under this chapter.

PERSON. An individual, firm, partnership, joint venture, association, corporation, estate, trust, trustee, or any other group or combination acting as a unit, excepting the United States of America, the State of Illinois, and any political subdivision thereof.

PHOTOGRAPHIC IDENTIFICATION. Any officially issued card containing the bearer's date of birth that includes a photograph of the person seeking to purchase tobacco products and that is accepted as proof of age under Illinois law.

POINT OF SALE. A store, stand, building, boat, vending machine or any other separate place of business maintained by a seller from which tobacco products are made available for sale or distribution to consumers. Point of sale does not include separate cash registers or service counters within a store or other place of business.

PUBLIC PLACE. Any areas to which the public is invited or permitted.

RETAILER. Any person who sells tobacco products to individuals for personal consumption, or who operates a facility containing vending machines that dispense tobacco products or self-service displays of tobacco products in the village.

TAVERN. An enclosed place of business kept, used, maintained, advertised and held out to the public as a place that primarily serves alcoholic liquor for consumption on the premises and in which providing entertainment or the serving of food is only incidental or secondary to the sale of alcoholic beverages for immediate consumption. Examples of places of business not deemed to be taverns within the definitions of this paragraph include, but are not limited to, restaurants, catering halls, bowling alleys, billiard parlors, discotheques, theaters and arenas.

TOBACCO PRODUCT SAMPLE. A tobacco product distributed to members of the general public at no cost or at nominal cost for purposes of promoting the product.

TOBACCO PRODUCTS. Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, snuff, smoking tobacco, and/or smokeless tobacco.

VENDING MACHINE. Any mechanical, electronic, or self-service device which upon insertion of money, tokens or other form of payment, automatically dispenses tobacco products. (Ord. 1721, passed 12-7-98)

§ 120.02 JURISDICTION.

This chapter applies to retailers of tobacco products in the village, including any person who sells tobacco products to individuals for personal consumption or who operates a facility containing vending machines which dispense tobacco products or self-service displays of tobacco products. (Ord. 1721, passed 12-7-98)

§ 120.03 PROHIBITIONS ON SALE OR DISTRIBUTION OF TOBACCO PRODUCTS.

(A) *Underage tobacco sales.*

(1) No retailer may sell or distribute tobacco products to any person under 18 years of age.

(2) Each retailer shall request and examine the photographic identification of any person purchasing tobacco products so as to verify that the purchaser is over 18 years of age. No such verification is required for any person who appears without reasonable doubt to be over 27 years of age.

(B) *Sale of tobacco products other than in sealed packages.* No retailer may break or otherwise open any cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum cigarette package size of 20 cigarettes or any

quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

(C) *Distribution of tobacco product samples prohibited.* No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, sidewalk, or in any public park, ground or playground, or in areas open to the public in any publicly owned or operated building or at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age.

(D) *Prohibited locations.* No retailer shall sell or distribute tobacco products at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age. This prohibition shall not apply to those businesses engaged in the retail sale of tobacco products at a location that would otherwise be prohibited by this chapter that were in existence prior to passage of this chapter. This exemption shall apply to any new owner at the same location providing the same service.

(E) *Restrictions on tobacco product vending machines.*

(1) No retailer shall sell or distribute tobacco products through a vending machine unless the vending machine is located:

(a) In an area of factories, businesses, offices, private clubs and other places not open to the public; or

(b) In taverns.

(2) Tobacco products may be sold or distributed by a tobacco product vending machine in a tavern only in the following ways:

(a) The tobacco product vending machine must be placed at a distance of a minimum of 25 feet from any entrance to the premises; and

(b) The tobacco product vending machine must be directly visible by the owner or the lessee of the premises, or his or her employee or agent during the operation of such vending machine.

(F) *Posting of warning to minors.* Every retailer of tobacco products shall place and maintain, in legible condition, at each point of sale of tobacco products to consumers, including the front of each vending machine, a sign stating:

"Warning

It is a Violation of the Law for Cigarettes Or Other Tobacco Products To Be Sold To Any Person Under 18 Years of Age."

The sign shall be not less than 8 inches by 11 inches in size, except for a sign placed on the front of a vending machine. The sign for a vending machine shall not be less than 4 inches by 4 inches in size. The text of such printed card shall be in red letters on a white background, said letters to be at least one inch high.

(Ord. 1721, passed 12-7-98) Penalty, see § 120.99

§ 120.04 LICENSING OF TOBACCO PRODUCT RETAILERS.

(A) *License requirement.* No person shall engage in the retail sale of tobacco products or operate a facility containing vending machines that dispense tobacco products unless the person is authorized to do so by a license issued pursuant to this chapter, or is an employee or agent of a person who has been issued a license pursuant to this chapter. A separate license must be obtained for each point of sale maintained by the retailer. The license to sell tobacco products shall be displayed prominently at the point of sale for which it is issued.

(B) *License administration.* The Village President, or his or her designee, shall administer the licensing of retailers of tobacco products and shall approve or deny all applications for licenses and revoke existing licenses pursuant to this chapter.

(C) *License - application.* An application for a tobacco retailer's license shall be filed in writing with the Village Clerk, or his or her designee, on a form provided by the village. Each application for a license shall contain the following:

(1) The applicant's full name, the address and telephone number where the applicant is engaged in the business of the retail sale of tobacco products and the name, address and telephone number of the person authorized to receive notices issued pursuant to this chapter.

(2) If the applicant is a corporation, the corporate name, the address and telephone number of the principal place of business; the date and state of incorporation; the names of the corporate officers and the name, address and telephone number of the person authorized to receive notices issued pursuant to this chapter.

(3) If the applicant is a partnership, the name, address and telephone number of the principal place of business; the names of all partners; the name, address and telephone number of a person authorized to receive notices issued pursuant to the chapter.

Any retailer whose license is revoked for violating this chapter shall be prohibited from obtaining a tobacco retailer's license for one year.

(D) Reserved.

(E) *License - term.* Every retailer's license shall be issued for an annual period beginning January 1 and ending December 31. Each license shall expire on the last day of the license year for which the license was issued.

(F) *License - fee.* The annual license fee for a retailer shall be \$125 per license. If a licensee operates more than one vending machine at the same premises, the licensee shall pay the annual license fee of \$125 for the first vending machine license and \$25 for each additional vending machine license.

(G) *License - transfer prohibited.* The transfer of any license issue hereunder is prohibited. Any such purported transfer is void.

(Ord. 1721, passed 12-7-98; Am. Ord. 1826, passed 10-15-2001) Penalty, see § 120.99

Cross-reference:

License required for vending machines, see § 119.01

§ 120.99 PENALTY.

(A) Any person, corporation or business who violates any provision of this chapter shall, upon conviction, be fined as follows:

(1) For a first violation, an administrative penalty of \$250;

(2) For a second violation, occurring after a final determination of liability for a first violation, and within a 12-month period, an administrative penalty of \$500, and a suspension of the license of the retail tobacco dealer for 30 days;

(3) For a third violation, occurring after a final determination of liability for a second violation and within a 12-month period, an administrative penalty of \$1,000, and a revocation of the license of the retail tobacco dealer for one year.

(B) In addition to imposing the fines and other penalties provided by this chapter, the village may request the Cook County State's Attorney to make application on behalf of the village to the Circuit

Court of Cook County for an injunction requiring compliance with the provisions of this chapter or for such order as the Court may deem necessary and appropriate to secure such compliance.

(C) In addition to imposing the fines and other penalties provided by this chapter, the Building Department may request the State's Attorney to make application on behalf of the village to the Circuit Court of Cook County for an injunction requiring compliance with the provisions of this chapter or for such order as the Court may deem necessary or appropriate to secure such compliance. (Ord. 1721, passed 12-7-98)