

Chapter 13 TOBACCO LICENSING

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13.01 DEFINITIONS

In addition to those terms defined in Appendix A of this Code, for purposes of this Chapter, the following words and phrases are defined as follows:

Tobacco products: Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

Smokeless tobacco: Any tobacco products suitable for dipping or chewing.

Smoking paraphernalia: Smoking devices, accessories and paraphernalia, including cigarette paper, cigarette and cigar rolling machines, pipes, bongs and any other devices which are manufactured or constructed for the use in connection with the preparation or consumption of smoking of tobacco products.

Vending machine: Any mechanical, electric or electronic self-service device, which, upon the insertion of money, tokens or any other form of payment, dispenses tobacco products.

13.02 LICENSE REQUIRED

It shall be unlawful to sell or offer for sale, at retail; to give away, deliver or keep with the intention of selling at retail, tobacco products, smokeless tobacco and/or smoking paraphernalia within the Village without first having obtained a Tobacco Dealer's License, pursuant to this Chapter.

Such license shall be in addition to any other license or permit required by this Code.

13.03 LICENSE APPLICATION; FEE

Application for a tobacco license (Exhibit A to this Chapter) shall be submitted to the Clerk for processing in accordance with the provisions of this Chapter. The fee for a Tobacco Dealer's License shall be \$100 per year, due and payable by May 1 of each year. In the case of vending machine sales, the fee shall be \$50 per year per machine.

13.04 PROHIBITIONS REGARDING MINORS

It shall be unlawful:

1. **SALE TO MINORS:** For any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products or smoking paraphernalia to any person under the age of 18 years. Signs informing the public of these age restrictions shall be posted by every licensee at or near every display of tobacco products and on or upon every vending machine which offers tobacco products or smoking paraphernalia for sale. The text of such sign shall be in red letters on a white background and the letters shall be a minimum of one inch high. Each sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS
TO PERSONS UNDER THE 18 YEARS OF AGE
IS PROHIBITED BY LAW

2. **SALE BY MINORS:** For any licensee or any officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any minor person under the age of 18 years to sell, deliver, barter, give or exchange tobacco products or smoking paraphernalia in any licensed premises.
3. **PURCHASE BY MINORS:** For any persons under the age of 18 years to purchase tobacco products or to misrepresent his identity or age or use any false or altered identification for the purpose of purchasing tobacco products or smoking paraphernalia.
4. **POSSESSION BY MINORS:** For any person under the age of 18 years to possess any tobacco products or smoking paraphernalia.

Nothing herein shall prohibit the possession or use of tobacco or tobacco products by a minor in his or her home, under the direct supervision of his or her parent or guardian.

13.05 CERTAIN FREE DISTRIBUTION IS PROHIBITED

It shall be unlawful for any licensee or person in the business of selling or otherwise distributing, promoting or advertising tobacco products or smoking paraphernalia or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products or paraphernalia free of charge to any person on any right-of-way, park, playground or other property owned by any public entity.

13.06 VENDING MACHINE; LOCKING DEVICES

It shall be unlawful for any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products or smoking paraphernalia by use of a vending machine unless such vending machine is equipped with a manual or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age

of 18 years of age. Any premise where access by persons under the age of 18 years is prohibited by law, or premises where the public is not permitted where vending machines are strictly for use of the employees of the business located at such premises, shall be exempt from the requirements of this Section.

13.07 ADMINISTRATION AND ENFORCEMENT

A. ADMINISTRATION: The Village Administrator shall be charged with the administration of this Chapter.

B. SUSPENSION AND REVOCATION OF LICENSE: The Administrator may suspend or revoke any license issued under the provisions of this Chapter if it is determined that the licensee has violated any provisions of this Chapter.

C. FINE IN LIEU OF SUSPENSION OR REVOCATION: In lieu of suspension or revocation of a license, the Administrator may levy a fine on the licensee. The fine imposed shall not exceed \$500 for each violation. Each day on which the violation continues shall constitute a separate violation.

D. HEARING; DECISIONS; FEES:

1. Notice of Hearing: No such license shall be suspended or revoked, or the licensee fined, except after a public hearing before the Administrator, after a seven day written notice has been delivered by regular first class mail, affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven day notice provision shall begin the day following delivery by certified mail or personal service.
2. Administrator's Decision: Within seven days after such hearing the Administrator shall determine if the licensee is guilty or not guilty. If the licensee is found guilty the license may be revoked or suspended and the licensee may be fined. The order of the Administrator shall be in writing, include the reasons for the determination and mailed to the licensee.
3. Fees: Any licensee determined by the Administrator to have violated any of the provisions of this Chapter shall be responsible for the cost of the hearing, including, but not limited to, court reporter's fees, transcripts or records, attorney's fees incurred by the Village and administrative fees.

The licensee shall pay said fine and costs to the Village within 30 days of notification of the costs by the Village. Failure to pay said fine and costs within 30 days shall be a violation of this Chapter and grounds for license suspension or revocation.

E. USE OF PREMISE AFTER LICENSE REVOCATION: When any license has been revoked a Tobacco Dealer's License shall not be eligible for re-issuance for the premises

described in the revoked license for the following six-month period.

F. **RESPONSIBILITY OF LICENSEE FOR AGENTS AND EMPLOYEES:** Every act or omission of whatsoever nature constituting a violation of any provisions of this Chapter by any officer, director, manager or other agent or employee of the licensee shall be deemed and held to be the act of such licensee and shall be punishable in the same manner as if the act or omission had been done or admitted by the licensee personally.

13.08 PENALTIES

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than \$50 and not more than \$500. Any persons, firm or corporation convicted of a second or subsequent offense shall be punished by a fine not less than \$150 and not more than \$500.

