# Article 6 COMPREHENSIVE REGULATION OF TOBACCO PRODUCTS TOBACCO

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## 8-6-1: DEFINITIONS:

For the purpose of this article, the following words or combinations of words are defined as follows:

ELECTRONIC CIGARETTE OR E-CIGARETTE: An electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides vapor of nicotine and/or other substances which is inhaled by a user to simulate smoking. The term includes such devices generally manufactured to resemble cigarettes, cigars, pipes, or other smoking devices regardless of the details of the product appearance or marketed name.

TOBACCO PRODUCTS: Any product or substance containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, without limitation, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, electronic cigarettes as defined herein or other similar products that rely on vaporization or aerosolization. "Tobacco product" includes any component, part, or accessory of a tobacco product, including cartridges containing liquid nicotine. "Tobacco product" does not include any product that has been approved by the United States food and drug administration for sale as a tobacco cessation product and that is marketed and sold solely for that approved purpose.

VENDING MACHINE: Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products or liquid nicotine products. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

## 8-6-2: LICENSE REQUIRED: C

It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products within the Village without having first obtained a tobacco dealer's license pursuant to this article. Said license shall be required regardless of the method of sale or dispensing and shall include sales and dispensing by self-help, manual service, mechanical service or coin operated device. Said license shall be nonassignable and nontransferable by the licensee, but may be transferred from one machine to a replacement device. In the event a licensee chooses to offer tobacco products for sale by means of a vending machine device exclusively, the provisions of this section shall not be interpreted to require an additional license and fee for the premises whereon such device is located.

Such license shall be in addition to any other license required by this code. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

#### 8-6-3: LICENSE APPLICATION: 4 🖾

Application for a license hereunder shall be made in writing to the Village and shall be processed in accordance with the provisions of <u>article 1 of this chapter</u>. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

## 8-6-4: LICENSE FEES:

The license fees for a tobacco license shall be as set forth in <u>article 2 of this chapter</u>. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

#### 8-6-5: PROHIBITED SALES, DELIVERY; SIGNS: 4

- A. It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products to any person under the age of twenty one (21) years.
- B. It shall be unlawful to sell, offer for sale, give away, or display tobacco products for sale at any location where the consumer can acquire those products through self-service, except that this restriction shall not apply to customer self-service from vending machines as described in section <u>8-6-9</u> of this article. All tobacco products shall be displayed from behind a sales/service counter so that no consumer can access tobacco products without assistance by an employee of the licensee.
- C. Signs informing the public of the age restrictions provided for herein 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 for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW. The text of such signs shall be in red letters on a white background; said letters to be at least one inch (1") high. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

#### 8-6-6: MINIMUM AGE TO SELL TOBACCO PRODUCTS:

It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under twenty one (21) years of age to sell tobacco products in any licensed premises. A licensee may engage, employ or permit a person between eighteen (18) years of age and twenty one (21) years of age to sell tobacco products in any licensed premises of age to sell tobacco products in any licensed premises of age to sell tobacco products in any licensed premises of age to sell tobacco products in any licensed premises until August 1, 2017. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

## 8-6-7: PURCHASE OR POSSESSION OF TOBACCO PRODUCTS BY MINORS: T

- A. It shall be unlawful for any person under the age of twenty one (21) years to purchase or possess any tobacco product as defined in section <u>8-6-1</u> of this article, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing or possessing a tobacco product.
- B. Any law enforcement officer who finds a person under the age of twenty one (21) years of age to be in possession of a tobacco product is authorized to seize and destroy the tobacco product. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

# 8-6-8: CERTAIN FREE DISTRIBUTIONS PROHIBITED: T

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, or any employee or agent of any such licensee or such person, in the course of such licensee's or such person's business, to distribute, give away or deliver tobacco products free of charge to any person on any right of way, park, playground or other property owned by the Village, any school district, any park district or any public library. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

## 8-6-9: VENDING MACHINES; LOCKING DEVICES: 4 ST

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 by use of a vending machine, except under the following circumstances:

A. Such vending machine is clearly visible to the licensee or licensee's agent and is equipped with a manual, electric or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of twenty one (21) years;

- B. Such vending machine is located on any premises where access by persons under the age of twenty one (21) years is prohibited by law; or
- C. Such vending machine is located on any premises where the public is generally not permitted and where vending machines are strictly for the use of employees of the business located at such premises. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

## 8-6-10: RESPONSIBILITY FOR AGENTS AND EMPLOYEES: 4 🖾

Every act or omission of whatever nature, constituting a violation of any of the provisions of this article by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

#### 8-6-11: SALE OF IMPROPERLY PACKAGED TOBACCO PRODUCTS OR E-CIGARETTES PROHIBITED:

It shall be unlawful for any retail establishment to sell, give away, barter, exchange, or otherwise furnish to any other person any tobacco product, including, but not limited to, a single or loose cigarette or e-cigarette, that is not contained within a sealed package provided by the manufacturer that has affixed to it any tax stamps required by law and that complies with all requirements imposed by federal law regarding warnings and other information on packages of tobacco products manufactured, packaged, or imported for sale, distribution, or use in the United States. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

# 8-6-12: SUSPENSION; NONRENEWAL; REVOCATION OF LICENSE; FINES AND COSTS: The second sec

A. The Village Manager may suspend or not renew any license issued under the provisions of this article if he or she determines that the licensee has violated any of the provisions of this article; or revoke any license issued under the provisions of this article, if he or she determines that the licensee has intentionally or repeatedly violated any of the provisions of this article. The Village Manager may also levy a fine against the licensee in addition to a suspension, nonrenewal or revocation of a license or in lieu of a suspension, nonrenewal or revocation. The fine imposed shall not exceed five hundred dollars (\$500.00) for each violation. Each day on which a violation continues shall constitute a separate violation.

However, no such license shall be suspended, not renewed or revoked and no licensee shall be fined except after a public hearing by the Village Manager, with a seven (7) day prior written notice to the licensee, affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provisions shall begin the day following delivery by certified mail or by personal service.

- B. The Village Manager shall within seven (7) days after such hearing, if he or she determines after such hearing that the license should be revoked, not renewed or suspended, and/or that the licensee should be fined, state the reason for such determination in a written order and either the amount of the fine, the period of suspension or that the license has been revoked or not renewed and serve a copy of such order within the seven (7) days upon the licensee.
- C. Any licensee determined by the Village Manager to have violated any of the provisions of this article shall pay to the Village the costs of the hearing before the Village Manager on such violation. The Village Manager shall determine the costs incurred by the Village for said hearing, including, but not limited to, court reporter fees, the costs of transcripts or records, attorney fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the Village or such lesser sum as the Village Manager may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs by the Village Manager. Failure to pay said costs within thirty (30) days of notification is a violation of this article and may be cause for an additional license suspension, nonrenewal or revocation, or the levy of a fine in addition to any fine previously imposed. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

# 8-6-13: USE OF PREMISES AFTER REVOCATION: 4 CONTINUES OF THE REVOCATION: 1 CONTINUES OF THE REVOCATION OF THE REVOCATION

When any license shall have been revoked for any cause, no license shall be granted to said licensee for the period of six (6) months thereafter for the conduct of the business of selling "tobacco products" as defined in section  $\underline{8-6-1}$  of this article, in the premises described in such revoked license. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)

# 8-6-14: PENALTIES:

- A. Any person convicted of violating section <u>8-6-7</u> of this article shall be fined not less than twenty five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for the first offense, and not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for any subsequent offense. In addition to, or, in lieu of a fine, violators may be ordered to perform some reasonable public service work or be ordered to complete a community based education, counseling or treatment program.
- B. Any person convicted of violating any section of this article other than section <u>8-6-7</u> of this article, shall be fined not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00) for each offense in addition to the penalties set forth in section <u>8-6-12</u> of this article with regard to an applicable license. (Ord. 16-054, 6-6-2016, eff. 8-1-2016)