

CITY OF WARRENVILLE

MEMO

TO: Administrator Coakley and Elected Officials
CC: Chief Turano
FROM: Deputy Chief Jacobson
SUBJECT: PROPOSED ORDINANCE: AMENDING CHAPTER 20 OF TITLE 3
AND SECTION 4-3-5 OF THE WARRENVILLE CITY CODE
REGARDING TOBACCO PRODUCTS
DATE: July 15, 2019

Effective July 1, 2019, the State of Illinois made changes to the law regarding tobacco products. The new law changed the age to 21 years old (from 18 years old) to legally purchase tobacco products, alternative nicotine products, and electronic cigarettes. In addition, the new law defined alternative nicotine products and electronic cigarettes.

Because of these changes, I requested the City attorneys to examine the City Code regarding tobacco products, and propose any necessary changes to that Code to be in compliance with the state law.

During their process, City attorneys discovered the ordinances for sale of tobacco products to minors and possession by minors had been duplicated in two Titles/Chapters (Title 4, Chapter 3, Section 5, *Sale of Tobacco Products to Minors; Possession by Minors*; and Title 3, Chapter 20, *Tobacco Products*). It was determined the most efficient way to correct this would be to repeal Title 4, Chapter 3, Section 5 in its entirety, and amend Title 3 Chapter 20 (Tobacco Products).

The proposed ordinance amendments include:

- Addition of language throughout the ordinance for alternative nicotine products and electronic cigarettes.
- Amending the legal age requirements (from 18 to 21 years old) to purchase tobacco products, alternative nicotine products, and electronic cigarettes.
- Changing *Possession by Minors* language age (from 18 to 21 years old), and incorporating the alternative nicotine products and electronic cigarettes language.

Attached to this memo is the proposed ordinance amendment drafted by the City Attorney.

Chapter 20

TOBACCO, ALTERNATIVE NICOTINE PRODUCTS AND PRODUCTS ELECTRONIC CIGARETTES

3-20-1: DEFINITIONS:

3-20-2: LICENSE REQUIRED:

3-20-3: APPLICATION FOR LICENSE FOR SALE OF TOBACCO PRODUCTS:

3-20-4: RESTRICTION ON LICENSES GRANTED:

3-20-5: PROHIBITED SALES, DELIVERY; SIGNS:

3-20-6: WARNING SIGNS:

3-20-7: MINIMUM AGE TO SELL ~~TOBACCO PRODUCTS~~:

3-20-8: PURCHASE BY ~~MINORS~~ UNDERAGE PERSONS PROHIBITED:

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3-20-10: CERTAIN FREE DISTRIBUTIONS PROHIBITED:

3-20-11: VENDING MACHINES; LOCKING DEVICES:

3-20-12: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

3-20-13: TOBACCO COMMISSIONER:

3-20-14: SUSPENSION; REVOCATION OF LICENSE; FINES, COSTS:

3-20-15: EFFECT OF REVOCATION:

3-20-16: PENALTIES:

3-20-1: DEFINITIONS:

For purposes of this chapter, unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this section.

ALTERNATIVE NICOTINE PRODUCT: A product or device, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by other means. This does not include tobacco products as that term is defined in this Section or any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, a tobacco dependence product, or for other medicinal purposes.

ELECTRONIC CIGARETTE:

(1) any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(2) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or

(3) any solution or substance, whether or not it contains nicotine intended for use in the device. "Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. "Electronic cigarette" does not include: cigarettes as defined in Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of

the Tobacco Products Tax Act of 1995; tobacco products and alternative nicotine products as defined in this Section; any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose; or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

MINOR UNDERAGE PERSON: A person ~~who has not yet attained the age of eighteen (18)~~under twenty one (21) years of age.

TOBACCO PRODUCTS: Any substance containing ~~either smoking herbs or tobacco leaf or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted sniffed, or ingested by any other means,~~ including, but not limited to, cigarettes, cigars, pipe tobacco, loose tobacco, snuff, chewing tobacco or dipping tobacco.

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, alternative nicotine products, or electronic cigarettes.

3-20-2: LICENSE REQUIRED:

It shall be unlawful for any person to sell or offer for sale at retail, to give away, to deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products, alternative nicotine products, or electronic cigarettes within the City without having first obtained a tobacco dealer's license therefor pursuant to the provisions of this chapter. The fee for such license shall be thirty five dollars (\$35.00) for the first year and ten dollars (\$10.00) for each succeeding year. Each such license shall expire on December 31.

3-20-3: APPLICATION FOR LICENSE FOR SALE OF TOBACCO PRODUCTS:

Any person requiring a license under this chapter shall make written application for a tobacco dealer's license and shall file said application with the City Clerk, who shall provide a blank form for that purpose, signed by the applicant, if an individual, or by a duly authorized agent if a club or corporation, verified by oath or affidavit, and shall contain the following information:

A. The name, age, date of birth, address, and telephone number of the manager or agent who conducts the business and the applicant in the case of an individual; and in the case of a copartnership, the persons entitled to share in the profits thereof; and in the case of a corporation for profit or of a club, the date of incorporation, the objects for which it was organized and the names and addresses of the officers and directors and any stockholder owning in the aggregate more than five percent (5%) of the stock (if said stockholder should be a corporation, then disclosure of the stockholders of that corporation as specified herein should be made) and any and all information which may be reasonably requested in order to determine whether the applicant, manager and other individuals, persons, officers, directors or shareholders named herein properly qualify under the terms of this chapter.

B. The citizenship of the applicant and his place of birth; and if a naturalized citizen, the name and place of his naturalization.

C. The character of business of the applicant; and in the case of a corporation the objects for which it was formed.

D. The length of time that said applicant has been in business of that character; and in the case of a corporation the date on which its charter was issued.

E. The location and description of the premises or place of business which is to be operated under such license.

F. The amount and nature of goods, wares and merchandise on hand at the time application is made.

G. A statement as to whether applicant has made similar application for another similar license on premises other than described in this application, and the disposition of such application.

H. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or the ordinances of this City or the laws of this State.

I. A statement as to whether a previous license issued by any state, or subdivision thereof, or by the Federal government, has been revoked, and the reason therefor.

J. A statement that the applicant will not violate any of the laws of the State of Illinois, nor of the United States, nor any ordinance of the City in the conduct of his place of business.

3-20-4: RESTRICTION ON LICENSES GRANTED:

No tobacco dealer's license shall be issued to:

A. A person who is not of good character and reputation in the community.

B. A person who has been convicted of being the keeper or is keeping a house of ill fame.

C. A person who has been convicted of a felony under the laws of the State of Illinois.

D. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

E. A person whose license issued under this chapter has been revoked for cause.

F. A person who, at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

G. A copartnership unless all the members of such copartnership shall be qualified to obtain a license.

H. A corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of said corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City.

I. A corporation, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois.

J. A person whose place of business is conducted by a manager or agent, unless said manager or agent possesses the same qualifications required of the licensee.

K. A person who does not own the premises for which a license is sought, or who does not have a lease thereon for the full period for which the license is to be issued.

L. Any law enforcing public official, any Mayor, Alderman, member of a City Council or commission, any President of a Village Board of Trustees, or any President or member of a County Board; and no such official shall be interested in any way, either directly or indirectly in the manufacture or distribution of tobacco products, [alternative nicotine products, or electronic cigarettes](#).

M. A person who is not a beneficial owner of the business to be operated by the licensee.

N. Any premises which are in violation of any of the applicable codes of the City, including, but not limited to, the Building and Fire Prevention Codes.

3-20-5: PROHIBITED SALES, DELIVERY; SIGNS:

A. It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, [alternative nicotine products, or electronic cigarettes](#) to any person under the age of ~~eighteen (18)~~ [twenty one \(21\)](#) years.

B. If any person contemplating the sale or furnishing of tobacco products, [alternative nicotine products, or electronic cigarettes](#) believes or has reason to believe that a sale or delivery of tobacco products, [alternative nicotine products, or electronic cigarettes](#) is prohibited because of the nonage of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

C. It shall be unlawful for any licensee to sell, offer for sale, give away or deliver tobacco products, [alternative nicotine products, or electronic cigarettes](#) to any person in any manner which violates Federal or State laws governing tobacco products, [alternative nicotine products, or electronic cigarettes](#). The violation of such Federal or State laws by the licensee shall also be deemed a violation of this chapter.

3-20-6: WARNING SIGNS:

Every person engaged in the business of selling tobacco products, [alternative nicotine products, or electronic cigarettes](#) shall at all times display signs informing the public of the age restrictions

provided for herein. The sign shall be posted by every licensee at or near every display of tobacco products, [alternative nicotine products, or electronic cigarettes](#) and on or upon every vending machine which offers tobacco products, [alternative nicotine products, or electronic cigarettes](#) for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS, [ALTERNATIVE NICOTINE PRODUCTS, OR ELECTRONIC CIGARETTES](#) TO PERSONS UNDER ~~EIGHTEEN~~[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.

3-20-7: 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 eighteen (18) years of age to sell tobacco products, [alternative nicotine products, or electronic cigarettes](#) in any licensed premises.

3-20-8: PURCHASE BY ~~MINORS~~[UNDERAGE PERSONS](#) PROHIBITED:

It shall be unlawful for any person under the age of ~~eighteen~~[twenty-one](#) (~~18~~[21](#)) years to purchase or to attempt to purchase tobacco products, [alternative nicotine products, or electronic cigarettes](#), or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products, [alternative nicotine products, or electronic cigarettes](#). No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information.

3-20-9: POSSESSION BY MINORS PROHIBITED:

It shall be unlawful for any person under the age of ~~eighteen~~[twenty-one](#) (~~18~~[21](#)) years to possess any tobacco products, [alternative nicotine products, or electronic cigarettes](#).

3-20-10: CERTAIN FREE DISTRIBUTIONS PROHIBITED:

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, [alternative nicotine products, or electronic cigarettes](#), 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, [alternative nicotine products, or electronic cigarettes](#), free of charge to any person on any right-of-way, park, playground or other property owned by the City, any school district, any park district or any public library.

3-20-11: VENDING MACHINES; LOCKING DEVICES:

A. 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, [alternative nicotine products,](#)

or electronic cigarettes, by use of a vending machine, unless such vending machine 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 ~~eighteen~~eighteen (18)~~twenty one (21)~~ years.

B. Any premises where access by persons under the age of ~~eighteen~~eighteen (18)~~twenty one (21)~~ years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of business located at such premises, shall be exempt from the requirements of subsection A of this section.

3-20-12: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this chapter 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.

3-20-13: TOBACCO COMMISSIONER:

The Mayor or his designee is hereby authorized and designated to be the Tobacco Commissioner and shall be charged with the administration of the applicable provisions of this chapter, as well as such ordinances and resolutions relating to tobacco as may be enacted. The Tobacco Commissioner may establish rules and regulations to aid in the administration of the applicable provisions of this chapter and to effectuate the purposes established herein.

3-20-14: SUSPENSION; REVOCATION OF LICENSE; FINES, COSTS:

A. The Tobacco Commissioner may suspend or revoke any and all licenses issued under the provisions of this chapter if he determines that the licensee has violated any of the provisions of this chapter.

B. In lieu of suspension or revocation of a license, the Tobacco Commissioner may instead levy a fine on the licensee. The fine imposed shall be not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00) for each violation. Each day on which a violation continues shall constitute a separate violation. However, no such license shall be suspended or revoked and no licensee shall be fined except after a public hearing by the Tobacco Commissioner with a seven (7) day 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.

C. The Tobacco Commissioner shall, within seven (7) days after such hearing, if he determines after such hearing that the license should be revoked or suspended, 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 and serve a copy of such order within the seven (7) days upon the licensee.

D. Any licensee determined by the Tobacco Commissioner to have violated any of the provisions of this chapter shall pay to the City the costs of the hearing before the Tobacco Commissioner on such violation. The Tobacco Commissioner shall determine the costs incurred by the City for

said hearing, including, but not limited to: court reporter's fees, the cost of preparing the mailing notices, the costs of transcripts or records and orders and all other miscellaneous expenses incurred by the City.

E. The licensee shall pay said costs to the City within thirty (30) days of notification of the costs by the Tobacco Commissioner. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter.

3-20-15: EFFECT OF 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, [alternative nicotine products, or electronic cigarettes](#) in the premises described in the revoked license.

3-20-16: PENALTIES:

A. For violations of any section of this chapter except as provided in subsection B of this section, the penalty shall be a fine of not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00).

B. For persons who are tobacco licensees the penalty provisions of section 3-20-14 of this chapter shall apply.

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Document 2 ID	interwovenSite://HKDMS/Active/68948108/2
Description	#68948108v2<Active> - Amendments to Chapter 20 - Tobacco Products
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Legend:	
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Insertions	43
Deletions	19
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	62

AN ORDINANCE AMENDING CHAPTER 20 OF TITLE 3 AND SECTION 4-3-5 OF THE WARRENVILLE CITY CODE REGARDING TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC CIGARETTES

WHEREAS, the City is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, Chapter 20 of Title 3 and Section 4-3-5 of the Warrenville City Code ("**City Code**") set forth regulations regarding the purchase, sale, and possession of tobacco products (collectively, the "**Tobacco Regulations**"); and

WHEREAS, alternative nicotine products are products or devices, not consisting of or containing tobacco, that provides for the ingestion of nicotine, whether by chewing, smoking, absorbing, sniffing, or by other means ("**Alternative Nicotine Products**"); and

WHEREAS, electronic cigarettes are battery operated devices that contain a cartridge generally containing nicotine ("**Electronic Cigarettes**") (collectively, tobacco products, Alternative Nicotine Products, and Electronic Cigarettes are the "**Products**"); and

WHEREAS, recent studies indicate that Alternative Nicotine Products and Electronic Cigarettes pose significant health risks to both users of Alternative Nicotine Products and Electronic Cigarettes and to those in the vicinity of users; and

WHEREAS, the United States Food and Drug Administration has issued a caution related to Alternative Nicotine Products and Electronic Cigarettes because the safety and efficacy of Alternative Nicotine Products and Electronic Cigarettes have not been fully researched and studied, and it is not known if the use of Alternative Nicotine Products or Electronic Cigarettes may lead young people to try tobacco products, including conventional cigarettes, which are known to cause disease and lead to premature death; and

WHEREAS, Illinois Public Act 101-0002 became effective on July 1, 2019, prohibiting the sale of the Products to, and the purchase of the Products by, persons under the age of 21; and

WHEREAS, pursuant to the home rule powers of the City, the City desires to amend the Tobacco Regulations to prohibit the sale of the Products to, and prohibit the purchase and possession of the Products by, persons under the age of 21 ("**Amendments**"); and

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City to adopt the Amendments and amend the City Code as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Tobacco, Alternative Nicotine Products, and Electronic Cigarettes. Chapter 20, titled "Tobacco Products," of Title 3, titled "Business Regulations," of the City Code is hereby repealed and replaced with a new Chapter 20, titled "Tobacco, Alternative Nicotine

Products and Electronic Cigarettes”, attached to and, by this reference, made a part of this Ordinance as **Exhibit A**.

SECTION 3. Repealer – Sale of Tobacco Products to Minors; Possession by Minors. Section 4-3-5, titled “Sale of Tobacco Products to Minors; Possession by Minors,” of Chapter 3, titled “General Offenses,” of Title 4, titled “Police Regulations” is hereby repealed in its entirety and reserved for future use.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect ten days after its passage and approval by the City Council and publication in pamphlet form in the manner provided by law.

PASSED THIS ____ day of _____, 2019.

AYES:
NAYS:
ABSENT:
ABSTAIN:

APPROVED THIS ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Chapter 20

TOBACCO, ALTERNATIVE NICOTINE PRODUCTS AND ELECTRONIC CIGARETTES

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3-20-3: APPLICATION FOR LICENSE FOR SALE OF TOBACCO PRODUCTS:

3-20-4: RESTRICTION ON LICENSES GRANTED:

3-20-5: PROHIBITED SALES, DELIVERY; SIGNS:

3-20-6: WARNING SIGNS:

3-20-7: MINIMUM AGE TO SELL:

3-20-8: PURCHASE BY UNDERAGE PERSONS PROHIBITED:

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ELECTRONIC CIGARETTE:

(1) any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(2) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or

(3) any solution or substance, whether or not it contains nicotine intended for use in the device. "Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. "Electronic cigarette" does not include: cigarettes as defined in

Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; tobacco products and alternative nicotine products as defined in this Section; any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose; or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

UNDERAGE PERSON: A person under twenty one (21) years of age.

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- A. The name, age, date of birth, address, and telephone number of the manager or agent who conducts the business and the applicant in the case of an individual; and in the case of a copartnership, the persons entitled to share in the profits thereof; and in the case of a corporation for profit or of a club, the date of incorporation, the objects for which it was organized and the names and addresses of the officers and directors and any stockholder owning in the aggregate more than five percent (5%) of the stock (if said stockholder should be a corporation, then disclosure of the stockholders of that corporation as specified herein should be made) and any and all information which may be reasonably requested in order to determine whether the applicant, manager and other individuals, persons, officers, directors or shareholders named herein properly qualify under the terms of this chapter.

- B. The citizenship of the applicant and his place of birth; and if a naturalized citizen, the name and place of his naturalization.
- C. The character of business of the applicant; and in the case of a corporation the objects for which it was formed.
- D. The length of time that said applicant has been in business of that character; and in the case of a corporation the date on which its charter was issued.
- E. The location and description of the premises or place of business which is to be operated under such license.
- F. The amount and nature of goods, wares and merchandise on hand at the time application is made.
- G. A statement as to whether applicant has made similar application for another similar license on premises other than described in this application, and the disposition of such application.
- H. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or the ordinances of this City or the laws of this State.
- I. A statement as to whether a previous license issued by any state, or subdivision thereof, or by the Federal government, has been revoked, and the reason therefor.
- J. A statement that the applicant will not violate any of the laws of the State of Illinois, nor of the United States, nor any ordinance of the City in the conduct of his place of business.

3-20-4: RESTRICTION ON LICENSES GRANTED:

No tobacco dealer's license shall be issued to:

- A. A person who is not of good character and reputation in the community.
- B. A person who has been convicted of being the keeper or is keeping a house of ill fame.
- C. A person who has been convicted of a felony under the laws of the State of Illinois.
- D. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- E. A person whose license issued under this chapter has been revoked for cause.
- F. A person who, at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- G. A copartnership unless all the members of such copartnership shall be qualified to obtain a license.

- H. A corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of said corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City.
- I. A corporation, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois.
- J. A person whose place of business is conducted by a manager or agent, unless said manager or agent possesses the same qualifications required of the licensee.
- K. A person who does not own the premises for which a license is sought, or who does not have a lease thereon for the full period for which the license is to be issued.
- L. Any law enforcing public official, any Mayor, Alderman, member of a City Council or commission, any President of a Village Board of Trustees, or any President or member of a County Board; and no such official shall be interested in any way, either directly or indirectly in the manufacture or distribution of tobacco products, alternative nicotine products, or electronic cigarettes.
- M. A person who is not a beneficial owner of the business to be operated by the licensee.
- N. Any premises which are in violation of any of the applicable codes of the City, including, but not limited to, the Building and Fire Prevention Codes.

3-20-5: PROHIBITED SALES, DELIVERY; SIGNS:

- A. It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, alternative nicotine products, or electronic cigarettes to any person under the age of twenty one (21) years.
- B. If any person contemplating the sale or furnishing of tobacco products, alternative nicotine products, or electronic cigarettes believes or has reason to believe that a sale or delivery of tobacco products, alternative nicotine products, or electronic cigarettes is prohibited because of the nonage of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.
- C. It shall be unlawful for any licensee to sell, offer for sale, give away or deliver tobacco products, alternative nicotine products, or electronic cigarettes to any person in any manner which violates Federal or State laws governing tobacco products, alternative nicotine products, or electronic cigarettes. The violation of such Federal or State laws by the licensee shall also be deemed a violation of this chapter.

3-20-6: WARNING SIGNS:

Every person engaged in the business of selling tobacco products, alternative nicotine products, or electronic cigarettes shall at all times display signs informing the public of the age restrictions

provided for herein. The sign shall be posted by every licensee at or near every display of tobacco products, alternative nicotine products, or electronic cigarettes and on or upon every vending machine which offers tobacco products, alternative nicotine products, or electronic cigarettes for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR ELECTRONIC CIGARETTES 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.

3-20-7: MINIMUM AGE TO SELL:

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 eighteen (18) years of age to sell tobacco products, alternative nicotine products, or electronic cigarettes in any licensed premises.

3-20-8: PURCHASE BY UNDERAGE PERSONS PROHIBITED:

It shall be unlawful for any person under the age of twenty-one (21) years to purchase or to attempt to purchase tobacco products, alternative nicotine products, or electronic cigarettes, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products, alternative nicotine products, or electronic cigarettes. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information.

3-20-9: POSSESSION BY MINORS PROHIBITED:

It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products, alternative nicotine products, or electronic cigarettes.

3-20-10: CERTAIN FREE DISTRIBUTIONS PROHIBITED:

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, alternative nicotine products, or electronic cigarettes, 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, alternative nicotine products, or electronic cigarettes, free of charge to any person on any right-of-way, park, playground or other property owned by the City, any school district, any park district or any public library.

3-20-11: VENDING MACHINES; LOCKING DEVICES:

A. 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, alternative nicotine

products, or electronic cigarettes, by use of a vending machine, unless such vending machine 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. Any premises where access by persons under the age of twenty one (21) years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of business located at such premises, shall be exempt from the requirements of subsection A of this section.

3-20-12: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this chapter 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.

3-20-13: TOBACCO COMMISSIONER:

The Mayor or his designee is hereby authorized and designated to be the Tobacco Commissioner and shall be charged with the administration of the applicable provisions of this chapter, as well as such ordinances and resolutions relating to tobacco as may be enacted. The Tobacco Commissioner may establish rules and regulations to aid in the administration of the applicable provisions of this chapter and to effectuate the purposes established herein.

3-20-14: SUSPENSION; REVOCATION OF LICENSE; FINES, COSTS:

- A. The Tobacco Commissioner may suspend or revoke any and all licenses issued under the provisions of this chapter if he determines that the licensee has violated any of the provisions of this chapter.
- B. In lieu of suspension or revocation of a license, the Tobacco Commissioner may instead levy a fine on the licensee. The fine imposed shall be not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00) for each violation. Each day on which a violation continues shall constitute a separate violation. However, no such license shall be suspended or revoked and no licensee shall be fined except after a public hearing by the Tobacco Commissioner with a seven (7) day 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.
- C. The Tobacco Commissioner shall, within seven (7) days after such hearing, if he determines after such hearing that the license should be revoked or suspended, 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 and serve a copy of such order within the seven (7) days upon the licensee.
- D. Any licensee determined by the Tobacco Commissioner to have violated any of the provisions of this chapter shall pay to the City the costs of the hearing before the Tobacco Commissioner

on such violation. The Tobacco Commissioner shall determine the costs incurred by the City for said hearing, including, but not limited to: court reporter's fees, the cost of preparing the mailing notices, the costs of transcripts or records and orders and all other miscellaneous expenses incurred by the City.

- E. The licensee shall pay said costs to the City within thirty (30) days of notification of the costs by the Tobacco Commissioner. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter.

3-20-15: EFFECT OF 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, alternative nicotine products, or electronic cigarettes in the premises described in the revoked license.

3-20-16: PENALTIES:

- A. For violations of any section of this chapter except as provided in subsection B of this section, the penalty shall be a fine of not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00).
- B. For persons who are tobacco licensees the penalty provisions of section 3-20-14 of this chapter shall apply.