

CHAPTER 177: TOBACCO REGULATIONS

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§ 177.01 RECITALS.

The recitals attached to the ordinance establishing this chapter are incorporated into this chapter as the findings of the County Board of Lake County, Illinois.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000)

§ 177.02 SHORT TITLE.

This chapter shall be known as and may be referred to as the “Lake County Tobacco Ordinance” or “this chapter”.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000)

§ 177.03 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, and words shall have the meanings given to them in this section. All terms, phrases, and words used in this chapter but not specifically defined in this section shall have the ordinary meaning commonly ascribed to those terms, phrases, or words.

HEALTH OFFICER. The Executive Director of the Lake County Health Department or an appropriate designated agent.

~~**MINOR.** An individual under the age of 18 years.~~

PERSON. An individual, corporation, partnership, association, or other legal entity.

~~**TOBACCO PRODUCT.** Any item, product, or substance containing tobacco leaf for human use, including specifically but without limitation cigarettes, cigars, snuff, and pipe, chewing, or dipping tobacco.~~ Means aAny product that is made from or derived from tobacco, or that contains nicotine, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including,

but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco Product” also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product such as filter, rolling papers, pipes, and liquid used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

ELECTRONIC SMOKING DEVICE. Means any device that ~~can~~ may be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

VENDING MACHINE. Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other forms of payment, dispenses tobacco products.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000)

§ 177.04 TOBACCO PRODUCTS AND MINORS PERSONS UNDER 21 YEARS OF AGE.

(A) *Sale by ~~minors~~ persons under 18 years of age.* It shall be unlawful for ~~any minor~~ persons under 18 years of age to sell, give, dispense, furnish, or otherwise distribute any tobacco product to any person within the unincorporated areas of the county unless the cash register electronically prompts the cashier to input the purchaser’s date of birth.

(B) *Sale to ~~minors~~ persons under 21 years of age.* It shall be unlawful for any person to sell, give, dispense, furnish, or otherwise distribute or make available any tobacco product to ~~any minor~~ persons under 21 years of age within the unincorporated areas of this county.

~~—(C) *Purchase by minors.* It shall be unlawful for any minor to purchase or otherwise acquire any tobacco product within the unincorporated areas of Lake County.~~

~~—(D) *Possession and use by minors.* It shall be unlawful for any minor to possess or use a tobacco product within the unincorporated areas of the county; provided, however, that the possession or use of any tobacco product by any minor under the direct supervision and control of the parent or guardian of the minor in the privacy of the parent’s or guardian’s home shall not be unlawful.~~

~~(E) (C) Notice required.~~

(1) It shall be unlawful for any person to engage in the sale or distribution of tobacco products within the unincorporated areas of Lake County, unless the person prominently displays as part of every display of tobacco products offered for sale the following notice:

THE PURCHASE SALE OF TOBACCO PRODUCTS BY TO ANY PERSON UNDER THE AGE OF ~~18~~ 21 IS PROHIBITED BY LAW.

(2) The notice shall be displayed in red letters at least one inch in height on a white background.

~~(F)~~ (D) *Vending machines—locking devices.*

(1) It shall be unlawful for any licensee to sell, or offer for sale, give away, distribute, or deliver any tobacco products by or through a vending machine, unless the vending machine is equipped with a locking device controlled by the licensee so as to prevent its operation by ~~minors~~ persons under 21 years of age.

(2) Any premises where access by persons under the age of ~~18~~ 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 businesses located at the premises, shall be exempt from the vending machine locking device requirements of this section.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000) Penalty, see § [177.99](#)

§ 177.05 LICENSING OF TOBACCO PRODUCT RETAILERS.

(A) *License requirement.* No person shall engage in the retail sale or distribution of tobacco products, including the operation of vending machines that dispense tobacco products, in unincorporated Lake County unless the person is authorized to do so by a current and valid 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 establishment maintained by the retailer. The license to sell or distribute tobacco products shall be displayed prominently at each establishment for which it is issued.

(B) *License administration.* The Lake County Health Department and Community Health Center shall administer the licensing of retailers of tobacco products and the ~~Director of Environmental Health Services~~ Health Officer shall have authority to approve or deny all applications for licenses and to suspend or revoke existing licenses in accordance with §177.07 pursuant to the terms of this chapter. A Rretailers whose license application is denied shall have the right to appeal make a written request to the Health Officer for a hearing before the Board of Health Hearings Committee any decision to suspend or revoke licensure pursuant to §§ [176.15](#) through [176.17](#).

(C) *License application.* An application for a tobacco retailer's license shall be filed in writing with the Lake County Health Department and Community Health Center on a form provided by the Health Officer. Each application for a license shall contain the full name, address, and telephone number of the applicant, the owner, and the business, firm, limited liability company, corporation, or other legal entity ~~or corporation~~, engaged in the retail sale of tobacco products; the name and address of the proposed point of sale; the name, address, and telephone number of the person authorized to receive notices issued pursuant to this chapter; and any other information as may be reasonably required by the Health Officer.

(D) *License term.* Every retailer's license shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on June 1 and terminating on May 31 of the following year. Application for renewal shall be made at least 30 days before the expiration of the then-current license term.

(E) *License fee.* The annual license fee for a retailer shall be \$100 per license. If a licensee operates ~~more than one~~ vending machines, for vending machines in the same building, the licensee shall pay the annual license fee of \$100 for the first vending machine license and \$25 for each additional vending machine license. A 100% late fee will be charged to retailers who do not pay their annual permit fees before the expiration of the then-current license term.

(F) *License transfer prohibited.* The transfer of any license issued hereunder from one person to another or from one location to another is prohibited. Any such purported transfer is void and shall cause the then-current license to automatically expire and terminate.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000)

§ 177.06 ENFORCEMENT.

(A) *Duties of the Lake County Sheriff.* The Lake County Sheriff or his or her designee(s) shall be responsible for the enforcement of this chapter. They shall conduct random, unannounced inspections at locations where tobacco products are sold, including tobacco vending machines, within the unincorporated areas of Lake County to ensure compliance with this chapter.

(B) *Responsibility for agent or employee.* Any act constituting a violation of this chapter by an agent or employee of any person shall be deemed and held to be the act of the person, and that person shall be punishable in the same manner as if the act had been done personally by that person.

(C) The Lake County Sheriff's Office, at ~~its~~ his or her discretion, may cite violations of this chapter either through a notice to appear before the 19th Judicial Circuit Court or through administrative adjudication pursuant to the Lake County Administrative Adjudication Ordinance (§§ [94.50](#) through [94.66](#)).

(D) *Injunctive relief.* In addition to or in lieu of any other remedies provided in this chapter, the county may commence an action to enjoin, remove, or abate any violation of this chapter in the manner provided by law and to restrain or enjoin any person from operating in violation of this chapter.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000; Ord. 15-0493, passed 5-12-2015)

§ 177.07 LICENSE SUSPENSION OR REVOCATION.

(A) Every license issued under this chapter is subject to the right, which is expressly reserved hereby, to ~~suspend~~ suspension for 30 days or to ~~revoke~~ revocation the same should the licensee, directly or indirectly through its employee or agent, permit the sale of a tobacco product to ~~any minor~~ persons under 21 years of age or to permit the display for sale of any tobacco product contrary to the provisions of this chapter ~~or the laws of this state~~. Upon determining that one or more grounds for suspension or revocation exist, the license may be suspended for 30 days or revoked by the Health Officer, after written notice to the licensee at the address set forth in the licensee's application, which notice shall specify the ordinance ~~or law~~ violation with which the licensee is charged, if after a hearing the licensee is found to have committed, directly or indirectly, the offense.

(B) The hearing shall be conducted before the Health Officer. The licensee and his or her attorney may present and submit evidence to his or her defense and any other persons may submit evidence to sustain such grounds. Within 15 days after the close of the hearing, the Health Officer shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Health Officer shall be final and shall be subject to judicial review. Any licensee who is subject of a revocation shall be ineligible to apply for or obtain a tobacco retailer's license for a period of one year from the date of license revocation.

(C) *Board of Health hearing.* When a license is suspended or revoked by the Health Officer, that person whose license was suspended or revoked may make a written request to the Health Officer for a hearing before the Board of Health Hearings Committee. The request for a hearing shall be made in accordance with §§ [176.15](#) through [176.17](#).

(1) *Fees.* A fee for a hearing request shall be in accordance with the current fee schedule adopted by the County Board as codified in § [178.01](#).

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000; Res. passed 2-10-2015)

§ 177.08 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after November 14, 2000, the date of the passage and approval of the Lake County Tobacco Ordinance by the County Board; provided, however, that any person engaged in the retail sale of tobacco products or operating a facility containing a vending machine that dispenses tobacco products in unincorporated Lake County as of the effective date of this chapter shall submit an application for a tobacco retailer's license when notified by the Health Officer and shall either obtain a license or cease the sale of any tobacco products and the operation of all vending machines that dispense tobacco products by July 1, 2001.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000)

§ 177.99 PENALTY.

(A) *Penalty.* Any person, including a licensee, who violates any provision of this chapter shall be subject to fines as set forth below:

(1) *Lake County Sheriff's Office Citation filed in Circuit Court.* If the ordinance violation is cited for enforcement before the 19th Judicial Circuit, the fine amount shall be an amount not to exceed \$250 for a first offense, and \$500 for a second offense or subsequent offense.

(2) *Lake County Administrative Adjudication Citation of Violation.* If the ordinance violation is cited for enforcement through the Lake County Administrative Adjudication Process, the minimum fine amount shall be \$115 for each violation.

(B) *Separate offenses.* Each instance in which this chapter is violated shall constitute a separate and distinct offense.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000; Ord. 15-0493, passed 5-12-2015)