

## 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.

**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 any other means. **ALTERNATIVE NICOTINE PRODUCT** 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 product and electronic cigarette as defined in this Section; or 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.

#### **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 product and alternative nicotine product 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.

~~**ELECTRONIC SMOKING DEVICE.** Any device that 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.~~

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

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

~~**TOBACCO PRODUCT.** Any product containing 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, little cigars, chewing tobacco, pipe tobacco, snuff, snus, and any other smokeless tobacco product which contains tobacco that is finely cut, ground, powdered, or leaf and intended to be placed in the oral cavity. **TOBACCO PRODUCT** includes any component, part, or accessory of a tobacco product, whether or not sold separately. **TOBACCO PRODUCT** does not include: an electronic cigarette and alternative nicotine product as defined in this Section; or any product that has been 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 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 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.~~

**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, electronic cigarettes, or alternative nicotine products.

(1977 Code, § 2:1-18) (Ord. [Bd of Health Ord., Art. XVIII] passed 11-14-2000; Ord. 17-0891, passed 9-12-2017)

#### **§ 177.04 TOBACCO PRODUCTS, ELECTRONIC CIGARETTES, AND ALTERNATIVE NICOTINE PRODUCTS AND PERSONS UNDER 21 YEARS OF AGE.**

(A) *Sale by persons under 18 years of age.* It shall be unlawful for persons under 18 years of age to sell, give, dispense, furnish, or otherwise distribute any tobacco product, electronic cigarette, or alternative nicotine 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 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, electronic cigarette, or alternative nicotine product to persons under 21 years of age within the unincorporated areas of this county.

(C) *Notice required.*

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

THE SALE OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTES, OR ALTERNATIVE NICOTINE PRODUCTS TO ANY PERSON UNDER THE AGE OF 21 IS PROHIBITED BY LAW.

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

(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, electronic cigarettes, or alternative nicotine 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 persons under 21 years of age.

(2) Any premises where access by persons under the age of 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; Ord. 17-0891, passed 9-12-2017) Penalty, see § 177.99

**§ 177.05 LICENSING OF TOBACCO PRODUCT, ELECTRONIC CIGARETTE, AND ALTERNATIVE NICOTINE PRODUCT RETAILERS.**

(A) *License requirement.* No person shall engage in the retail sale or distribution of tobacco products, electronic cigarettes, or alternative nicotine products, including the operation of vending machines that dispense tobacco products, electronic cigarettes, or alternative nicotine 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, electronic cigarettes, or alternative nicotine 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, electronic cigarettes, and alternative nicotine products and the 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. A retailer whose license application is denied shall have the right to make a written request to the Health Officer for a hearing before the Board of Health Hearings Committee 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 engaged in the retail sale of tobacco products, electronic cigarettes, or alternative nicotine 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 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; Ord. 17-0891, passed 9-12-2017)

#### **§ 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, electronic cigarettes, or alternative nicotine 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, at 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; Ord. 17-0891, passed 9-12-2017)

#### **§ 177.07 LICENSE SUSPENSION OR REVOCATION.**

(A) Every license issued under this chapter is subject to suspension for 30 days or revocation should the licensee, directly or indirectly through its employee or agent, permit the sale of a tobacco product, electronic cigarette, or alternative nicotine product to persons under 21 years of age or to permit the display for sale of any tobacco product, electronic cigarette, or alternative nicotine product contrary to the provisions of this chapter. 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 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; Ord. 17-0891, passed 9-12-2017)

#### **§ 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, electronic cigarettes, or

alternative nicotine products or operating a facility containing a vending machine that dispenses tobacco products, electronic cigarettes, or alternative nicotine 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, electronic cigarettes, or alternative nicotine products and the operation of all vending machines that dispense tobacco products, electronic cigarettes, or alternative nicotine 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)