

Chapter 8

TOBACCO DEALERS

3-8-1: DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall have these meanings:

TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, snuff or chewing tobacco.

VENDING MACHINES: Any mechanical or electrical, self-service devices which, upon insertion of money or tokens, dispenses tobacco products. (Ord. 1993-23, 8-12-1993)

3-8-2: LICENSE REQUIRED; FEE:

- A. License Required: It shall be unlawful to sell or to 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 City without having first obtained a tobacco dealer's license pursuant to this Chapter.

- B. Additional License: Such license shall be in addition to any other license required by this Code.

- C. Application For License: Application for a license hereunder shall be made in writing to the City Clerk and shall be processed according to normal licensing procedures.

- D. License Fee: The license fee for a tobacco dealer's license shall be a one-time fifty dollar (\$50.00) charge. (Ord. 1993-23, 8-12-1993)

3-8-3: PROHIBITIONS AND REQUIREMENTS:

- A. Sale To Underage Persons: 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 eighteen (18) years.

- B. Posting Of Signs: 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 sign shall be plainly visible and shall state:

*THE SALE OF TOBACCO PRODUCTS TO
PERSONS UNDER EIGHTEEN YEARS OF AGE
IS PROHIBITED BY LAW.*

The letters of said sign shall be a minimum of one inch (1") high.

- C. Employment Of Underage Persons: 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 in any licensed premises.
- D. Purchase By Underage Persons; Misrepresentation Of Age: It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.
- E. Possession By Underage Persons: It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco product; provided, that the possession by a person under the age of eighteen (18) years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.
- F. Sale Near Church Or School: It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within one hundred feet (100') of any school, childcare facility, or other building used for education or recreational programs for persons under the age of eighteen (18) years.
- G. Gift Of Tobacco Products On City, School Or Park Property: 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 person, in the course of such licensee's or 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 city, any school district, any park district or any public library.
- H. Vending Machines; Locking Device: 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, 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 (18) years old.

- I. Exemption: Any premises where access by persons under the age of eighteen (18) 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 subsection H of this section. (Ord. 1993-23, 8-12-1993)

3-8-4: AGENT AND EMPLOYEE RESPONSIBILITY:

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. (Ord. 1993-23, 8-12-1993)

3-8-5: LICENSE SUSPENSION OR REVOCATION:

A. Determination By Mayor; Hearing:

1. The mayor shall be charged with the administration of this chapter. The mayor may suspend or revoke any license issued under the provision of this chapter, if he determines that the licensee has violated any of the provisions of this chapter. In lieu of suspension or revocation of a license, the mayor may instead levy a fine not to exceed two hundred fifty dollars (\$250.00) for each violation. Each day on which a violation continues shall constitute a separate violation.
2. However, no such license shall be suspended or revoked and no licensee shall be fined except after public hearing in front of the mayor and city council. The licensee shall be given seven (7) days' written notice of said opportunity to appear and defend against the charges contained in the notice. The seven (7) day notice period shall begin to run the day after delivery of the notice.
3. The mayor shall, within ten (10) days after the hearing, state the reason for any suspension, revocation or fine, in a written order, together with the amount of the fine, the time of the suspension or that the license has been revoked. A copy of the order shall be served upon the licensee within seven (7) days of the decision.

- B. Payment Of Fine: Any licensee determined by the mayor to have violated any of the provisions of this chapter shall pay to the city any fine levied by the mayor within fourteen (14) days of the notice of the order of said mayor setting forth the amount of the fine.

C. Failure To Pay Fine: Failure of any licensee to pay said fine within fourteen (14) days of notice of said order shall be cause for license suspension or revocation. (Ord. 1993-23, 8-12-1993)

3-8-6: USE OF PREMISES AFTER REVOCATION:

When any license shall have been revoked for any reason, no license shall be granted to the licensee for a period of four (4) months thereafter for the conduct of business of selling "tobacco products" as defined in this chapter in the premises described on such revoked license. (Ord. 1993-23, 8-12-1993)

3-8-7: EFFECTIVE DATE:

The provisions of this chapter shall be enforced from and after September 1, 1993. (Ord. 1993-23, 8-12-1993)