

CHAPTER 10
REGULATION OF TOBACCO PRODUCTS

- 2-10-1: License Required; Application; Fee: It shall be unlawful to sell or offer for sale at retail or in vending machines, to give away, deliver or keep with the intention of selling at retail, giving away or delivering any tobacco products within the Village without having first obtained a tobacco dealer's license therefor. Applications for such licenses shall be made in compliance with this Chapter 10. The annual fee for such license shall be Fifty Dollars (\$50.00).
- 2-10-2: License Year: The license year for a tobacco dealer's license shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.
- 2-10-3: Fee for Incidental Vending Machines: In lieu of the annual license fee for tobacco dealers as provided for in Subsection 2-10-1, where tobacco products are served through a coin-operated vending machine in connection with an establishment whose business is not the sale of tobacco products at retail, the license fee for selling tobacco products through such vending machines shall be Fifty Dollars (\$50.00) for not more than three (3) such machines maintained on the premises and ten dollars (\$10.00) for each additional machine over three (3).
- 2-10-4: License Application: Any person desiring a license under this Chapter shall file in writing an application therefor with the Village Clerk upon a form provided by the Village Clerk, setting forth the name and the address of the applicant, the name of the owner of the premises or establishment and such other information as may be prescribed.
- 2-10-5: Definitions: For the purposes of this Chapter, the following words and phrases shall have the following meanings:

SMOKELESS TOBACCO

Any tobacco products that are suitable for dipping or chewing.

SMOKING HERBS

All substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimsonweed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

TOBACCO ACCESSORIES

Cigarette papers, pipes, holders of smoking materials of all types, cigarette-rolling machines and other items designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is made unlawful under this Chapter.

TOBACCO PRODUCTS

Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe 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.

2-10-6: Sales to Minors Prohibited:

- A. Tobacco Products. No minor under eighteen (18) years of age shall buy or possess any cigar, cigarette, smokeless tobacco or tobacco in any of its forms unless upon the written order of the minor's parent or guardian. No person, including any licensee, shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms to any minor under eighteen (18) years of age unless upon the written order of the minor's parent or guardian or unless sold in the presence of such parent or guardian.
- B. Tobacco Accessories. No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco, accessories or smoking herbs to any person under eighteen (18) years of age.
- C. Use of Identification Cards. No person in the furtherance or facilitation of obtaining a cigar, cigarette, smokeless tobacco, tobacco accessories or tobacco in any of its forms shall display or use a false or forged identification card or transfer, alter or deface an identification card.
- D. Warning to Minors. Any person, firm, partnership, company or corporation operating a place of business wherein tobacco products, tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises near every display of tobacco products, accessories or smoking herbs a sign upon which there shall be imprinted the following statement:

SALE OF TOBACCO PRODUCTS, TOBACCO ACCESSORIES
AND SMOKING HERBS TO PERSONS UNDER EIGHTEEN
YEARS OF AGE OR THE MISREPRESENTATION OF AGE
TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.
POSSESSION OF TOBACCO PRODUCTS BY SUCH
PERSONS IS ALSO PROHIBITED BY LAW.

Such a sign shall be printed on a white card in red letters, and such letters shall be at least one-half inch (1/2") in height.

- 2-10-7: 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 in any licensed premises.
- 2-10-8: Sales in Proximity to Certain Institutions: 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, child care facility or other building used for education or recreational programs for persons under the age of eighteen (18) years.
- 2-10-9: Free Distributions Prohibited in Certain Place: 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 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.
- 2-10-10: 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 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.
 - B. 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 a business located at such premises shall be exempt from the requirements of Subsection A above.

2-10-11: 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.

2-10-12: Suspension; Revocation of License; Fines; Costs:

The Village President may suspend or revoke any license issued under the provision of this Chapter if he or she determines that the licensee has violated any of the provision of this Chapter. In lieu of suspension or revocation of a licensee, the Village President may instead levy a license surcharge which shall be 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 or revoked and no licensee shall be fined except after a public hearing by the Village President with a seven-day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven-day-notice provisions shall begin the day following delivery by certified mail or by personal service.

The Village President shall within seven (7) days after such hearing, if he determines after such hearing that the licensee 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.

Any licensee determined by the Village President to have violated any of the provisions of this Chapter shall pay to the Village the costs of the hearing before the Village President on such violation. The Village President shall determine the costs incurred by the Village for said hearing, including but not limited to: Court reporter's fees, the costs of transcripts or records, attorneys' 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 President may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the amount of such costs by the Village President. Failure to pay said costs within thirty (30) days of notification is a violation of this Chapter and may be cause for license suspension or revocation or the imposition of the license surcharge as aforesaid.