

Chapter 7 TOBACCO PRODUCTS

3-7-1: LEGISLATIVE FINDINGS, DECLARATION, AND PURPOSE:

The village board of the village of Sugar Grove finds cigarette smoking and other tobacco use by minors a grave public health problem. Therefore, the purpose of this chapter is to implement a strict and enforceable system to prevent the illegal sale of cigarettes and other tobacco products to minors.

A. Findings:

1. Cigarette smoking is dangerous to human health;
2. There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease, and various other medical disorders;
3. The surgeon general of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine and is the most widespread example of drug dependence in this country;
4. The centers for disease control and prevention have found that among persons who have ever tried a cigarette, more than eighty percent (80%) reported having had their first cigarette before age eighteen (18); and
5. The National Institute on Drug Abuse has found that cigarette smoking precedes and may be predictive of adolescent illicit drug use.

B. Enactment Of Chapter: The enactment of this chapter intends to further the health, welfare, and safety of the residents of the village of Sugar Grove, Kane County, Illinois, particularly those residents under eighteen (18) years of age. (Ord. 2003-06-03B, 6-3-2003)

3-7-2: DEFINITIONS:

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

COMPLIANCE CHECK: An inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age of sales laws. Compliance checks are conducted by having designated persons under the age of eighteen (18) years attempt to purchase tobacco products from vendors.

LICENSE: A license issued by the village of Sugar Grove for the retail sale of tobacco products.

LICENSEE: The holder of a valid license for the retail sale of tobacco products.

MINOR: Any person under the age of eighteen (18) years.

PUBLIC PLACE: An area to which the public is invited or in which the public is permitted, including, but not limited to, any right of way, mall or shopping center, park, playground, and any other property owned by the village, any school district, library district, or any park district.

SELF-SERVICE DISPLAYS: Open displays of tobacco products and point of sale tobacco promotional products that the public has access to without intervention of a store employee.

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 form of payment, dispenses tobacco products. (Ord. 2003-06-03B, 6-3-2003)

3-7-3: LICENSE REQUIRED:

It shall be unlawful to sell or offer for sale at retail, give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products within the village without having first obtained a valid tobacco retailer's license from the village for each location in which tobacco products are sold. Licenses shall be nonrefundable and shall be issued on July 1 and shall be valid through the following June 30.

If at the time application is made for a license required by this chapter, less than six (6) months of the current license year shall have expired, the full fee shall be charged. If more than six (6) months of such current year shall have expired, a license fee of one-half ($\frac{1}{2}$) of the full fee shall be charged for such portion of the current license year that shall remain unexpired. (Ord. 2003-06-03B, 6-3-2003)

3-7-4: LICENSE FEE:

The fee shall be set and determined from time to time by the board of trustees of the village by resolution by said board of trustees. (Ord. 2008-04-15B, 4-15-2008)

3-7-5: NONTRANSFERABILITY OF LICENSE:

A tobacco retail license is nontransferable, except a new license will be issued to a tobacco retailer who changes location. (Ord. 2003-06-03B, 6-3-2003)

3-7-6: PROHIBITED SALES:

It shall be unlawful for any person to sell, offer for sale, give away, or deliver tobacco products to any person under the age of eighteen (18) years. (Ord. 2003-06-03B, 6-3-2003)

3-7-7: WARNING SIGNS:

Signs informing the public of the age of sale restrictions shall be posted by every licensee at or near every display of tobacco products and one upon every vending machine that 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 text of such signs must be in red letters on a white background, and said letters must be at least one inch (1") high. (Ord. 2003-06-03B, 6-3-2003)

3-7-8: MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS:

It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products or to misrepresent their age or use any false or altered identification with the intention of purchasing tobacco products. (Ord. 2003-06-03B, 6-3-2003)

3-7-9: MINIMUM AGE TO SELL TOBACCO PRODUCTS:

It shall be unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under sixteen (16) years of age to sell tobacco products on any vendor's premises. Further, it shall be unlawful for any person under eighteen (18) years of age to sell tobacco products on any vendor's premises unless an officer, agent, or other employee of the vendor is on the premises at the time of sale. (Ord. 2003-06-03B, 6-3-2003)

3-7-10: VENDING MACHINES:

A. Locking Devices: 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. Certain Premises: 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 the requirements of subsection A of this section. (Ord. 2003-06-03B, 6-3-2003)

3-7-11: TOBACCO SAMPLES AND CERTAIN FREE DISTRIBUTIONS PROHIBITED:

It shall be unlawful for any licensee or any person, business, or tobacco retailer to distribute, give away, or deliver tobacco products free of charge, or deliver any coupon or rebate for tobacco products 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. (Ord. 2003-06-03B, 6-3-2003)

3-7-12: VENDOR ASSISTED SALES:

It shall be unlawful for any licensee, person, business, or tobacco retailer to sell, permit to be sold, or offer for sale any tobacco product by means of self-service displays or any other means other than vendor assisted sales except as provided in section [3-7-10](#) of this chapter. (Ord. 2003-06-03B, 6-3-2003)

3-7-13: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of any nature constituting a violation of any provision 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. 2003-06-03B, 6-3-2003)

3-7-14: POSSESSION BY MINORS PROHIBITED:

A. It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products.

B. It shall not be a violation of this section for a minor to possess any tobacco product where:

1. Such use takes place under the direct supervision and approval of the parent, parents, or legal guardian of the minor; and
2. Such use takes place in the privacy of a home or established place of worship or tribal meeting place; provided, however, where such use takes place in an established place of worship or tribal meeting place, such use shall not be a violation only where use is in the performance of a religious service or tribal ceremony and the religious group or tribe is legally established and recognized by the state of Illinois. (Ord. 2003-06-03B, 6-3-2003)

3-7-15: INSPECTION:

It shall be the duty of the chief of police, or his/her designees, and they are hereby authorized and empowered to conduct random, unannounced inspections of all places wherein such tobacco products are licensed to be sold, for the purpose of ascertaining whether the laws of the state and of the village in relation to the same, are being complied with at such place. (Ord. 2003-06-03B, 6-3-2003)

3-7-16: SALES/DISTRIBUTION VIOLATION:

The chief of police, or his/her designees shall initiate enforcement against any person who violates any provision of this chapter, and the village president, as hearing officer, shall conduct hearings upon the chief of police or license holder's request. The chief of police or his/her designees shall have the authority to enforce this chapter, and shall develop internal policies for compliance checks and all other enforcement procedures.

Any person who shall knowingly violate, or shall knowingly cause the violation of any provision of this chapter other than the purchasing and possession sections (sections [3-7-8](#) and [3-7-14](#) of this chapter, respectively), is guilty of a petty offense for which the offender may be fined an amount in accordance with section [1-4-1](#) of this code. (Ord. 2003-06-03B, 6-3-2003)

3-7-17: SUSPENSION AND REVOCATION OF LICENSE:

A license shall be suspended or revoked for any violation of this chapter after notice and opportunity to be heard as follows:

- A. In the case of a first violation, the licensee shall be fined two hundred dollars (\$200.00) and shall be notified in writing of penalties levied for further violations.
- B. In the case of a second violation, the licensee shall be fined five hundred dollars (\$500.00) and the tobacco license shall be suspended for not less than thirty (30) consecutive business days nor more than three (3) months. Tobacco retailers must remove all tobacco merchandise from all areas accessible to the public while the license is suspended.
- C. In the case of a third violation, the licensee shall be fined seven hundred fifty dollars (\$750.00) and the tobacco license shall be suspended for not less than three (3) months nor more than twelve (12) months from the date of suspension. Tobacco retailers must remove all tobacco merchandise from all areas accessible to the public while the license is suspended.

D. In the case of a fourth violation, the licensee shall be fined one thousand dollars (\$1,000.00) and the license shall be revoked. All tobacco merchandise must be removed from all areas accessible to the public.

Any licensee found to have violated any of the provisions of this chapter shall pay to the village costs of the hearing on such violation. Costs may include, but not be limited to: court reporter 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 costs. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter and may cause the levy of an additional fine. (Ord. 2003-06-03B, 6-3-2003)

3-7-18: PURCHASE/POSSESSION VIOLATIONS:

Any person under the age of eighteen (18) years that violates the purchasing and possession sections (sections [3-7-8](#) and [3-7-14](#) of this chapter, respectively) will be subject to the following penalties:

- A. In all such violations, the parent(s)/legal guardian(s) shall be notified of the alleged violation by the police department;
- B. If said violation is a first offense in the village of Sugar Grove by the accused, the penalty shall be a verbal warning by the police department;
- C. If said violation is a second offense in the village of Sugar Grove by the accused, the penalty shall be a written warning by the police department;
- D. If said violation is a third or subsequent offense, the penalty shall be as set by resolution 2002-0215 of the village for compliance ticket procedures (and as said resolution is amended from time to time). Failure to comply with the provisions of said compliance ticket will result in a citation issued in the circuit court and the penalty shall be as provided in section [1-4-1](#) of this code. (Ord. 2003-06-03B, 6-3-2003)