

CHAPTER 13

TOBACCO PRODUCTS DEALERS

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3-13-1: **DEFINITIONS:** For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them:

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.

3-13-2: **LICENSE REQUIRED:**

- A. It shall be unlawful to sell or 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 of Pekin without having first obtained a tobacco dealer's license therefor pursuant to this Article.
- B. Application for a license hereunder shall be made in writing to the City Clerk.

3-13-3: **FEES:** The annual license fee for a tobacco dealer's license shall be fifty (\$50.00) dollars for each vending machine or for each location where tobacco products are sold and dispensed.

- A. However, one license only shall be required where tobacco products are dispensed in a place of business having more than one check-out counter in that individual business.
- B. Also, where tobacco products are sold and dispensed at a check-out counter or counters and by vending machine, said machine shall be required to pay annual fee and annual fee will be required for the sale of tobacco products over check-out counter or counters even though located within the same business operation.

3-13-4: OWNERSHIP; DISPLAY:

- A. Ownership: The license shall be issued to the owner or proprietor of the place or building in which the tobacco products are sold or dispensed.
- B. Display: The license or a copy thereof shall be displayed upon each machine from which tobacco products are dispensed, and a valid license for the sale of tobacco products shall be displayed at the place where the same are sold over the counter.

3-13-5: LOCATION RESTRICTIONS: No license shall be issued for the sale at retail of any tobacco products within 100 feet of any school, child care facility or other building used for educational or recreational programs for persons under the age of 18. This prohibition shall not apply to the renewal of any existing license. The distance of 100 feet shall be measured to the nearest part of any such school, child care facility or other building used for educational or recreational programs for persons under the age of 18.

3-13-6: PROHIBITED SALES AND DELIVERY; SIGNS:

- A. 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. 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 such 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 shall be in red letters on a white background, said letters to be at least one inch (1") high.

3-13-7: **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.

3-13-8: **CERTAIN FREE DISTRIBUTIONS PROHIBITED:** 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, or any other person, to distribute, give away or deliver tobacco products free of charge to any person in any right-of-way, park, playground or other property owned by the city, or any property owned by any school district, park district or public library.

3-13-9: **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 the 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 the business located at such premises shall be exempt from the requirements of the foregoing Paragraph A. above.

3-13-10: **ACTS AND OMISSIONS:** Every act or omission of whatever nature, constituting a violation of any of the provisions of this Article 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.

3-13-11: **SUSPENSION; REVOCATION OF LICENSE; FINES; COSTS:**

- A. The Mayor shall be charged with the administration of this Article. The Mayor may suspend or revoke any license issued under the provisions of this Article, if the Mayor determines that the licensee has violated any of the provisions of this Article. In lieu of suspension or revocation of a license, the Mayor may instead levy a fine on the licensee.

- B. However, no license shall be suspended or revoked and no licensee shall be fined except after a hearing with the Mayor with a seven (7) day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provision shall begin the day following delivery by certified mail or by personal service.
- C. The Mayor shall within seven (7) days after such hearing, if the Mayor determines after such hearing that the license 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 upon the licensee within fourteen (14) days after such hearing.
- D. Any licensee determined by the Mayor to have violated any of the provisions of this Article shall pay to the City the costs of the hearing before the Mayor on such violation. The Mayor shall determine the costs incurred by the City 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 City or such lesser sum as the Mayor may allow.
- E. The licensee shall pay said fine and/or costs to the City within thirty (30) days of notification of the costs by the Mayor. Failure to pay said costs within thirty (30) days of notification is a violation of this Article and may be cause for license suspension, revocation, levy of a fine or other civil remedy.

3-13-12: **USE OF PREMISES AFTER REVOCATION:** When any license shall have been revoked for any cause, no license shall be granted to said licensee for the period of six (6) months thereafter for the conduct of the business of selling tobacco products as defined in Section 3-13-1 of this Article.

3-13-13: **FINES AND PENALTIES:** Any violation of this Article shall be punishable by a fine in accordance with Section 1-4-1 of this Code.