



CITY OF AURORA, ILLINOIS

ORDINANCE NO. 022-019
DATE OF PASSAGE March 8, 2022

An Ordinance amending Chapter 13 of the Code of Ordinances pertaining to the licensure of retailers engaged in the business of selling certain vapor and alternate tobacco and nicotine products.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City Council adopted Ordinance O21-023 which required retailers first applying for tobacco licenses on or after May 15, 2021, to obtain a separate endorsement in order to offer alternative nicotine, alternative tobacco, or vapor products for sale; and

WHEREAS, the City Council anticipated adopting further amendments to Chapter 13 of the Code of Ordinances that would restrict or otherwise limit the issuance of endorsements authorizing the sale alternative nicotine, alternative, tobacco, or vapor products; and

WHEREAS, such further amendments are set forth in Exhibit A, which is attached to and made part of this Ordinance as if fully set forth herein;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That Sections 13-1 and 13-9 of Chapter 13 of the Code of Ordinance shall be and hereby are amended as set forth in Exhibit A.

Section Two: That this Ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

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Section Three: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar any conflict exists.

Section Four: That any section, phrase or paragraph of this Ordinance that is construed to be invalid, void or unconstitutional shall not affect the remaining sections, phrases or paragraphs of this Ordinance which shall remain in full force and effect.

Section Five: That the City Clerk shall cause this Ordinance to be published in pamphlet form upon its passage.

ORDINANCE NO. 022-019
LEGISTAR NO. 21-0839

PASSED AND APPROVED ON March 8, 2022

AYES 12 NAYS 0 NOT VOTING 0 ABSENT 0

ALDERMAN	Vote
Alderman Llamas, Ward 1	yes
Alderwoman Garza, Ward 2	yes
Alderman Mesiacos, Ward 3	yes
Alderman Donnell, Ward 4	yes
Alderman Franco, Ward 5	yes
Alderman Saville, Ward 6	yes
Alderwoman Hart-Burns, Ward 7	yes
Alderwoman Smith, Ward 8	yes
Alderman Bugg, Ward 9	yes
Alderwoman Baid, Ward 10	yes
Alderman Woerman, At Large	yes
Alderman Jenkins, At Large	yes

ATTEST:


City Clerk


Mayor Pro-Tem, Carl Franco

1 CHAPTER 13 CIGARETTES, CIGARS, TOBACCO, ALTERNATIVE NICOTINE OR VAPOR PRODUCTS TOBACCO
2 AND RELATED PRODUCTS

3 Sec 13-1 Definitions

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

6 *Alternative nicotine product or alternative tobacco product or vapor product:* Any product, other than a
7 cigarette, which may or may not contain tobacco and/or nicotine, intended for ingestion into the body and
8 designed, packaged, marketed, or displayed for smoking, absorbing, dissolving, inhaling, sniffing, snorting,
9 placed in oral or nasal cavities, or applied to skin, with the use of any electronic smoking device, including
10 but not limited to, flavored or unflavored e-juice, e-liquid, e-nicotine, vaping juice, liquid nicotine, smoke
11 juice, pipe tobacco, rolling tobacco, hookah tobacco, snuff, dabs, oils, pastes, waxes, chewing tobacco,
12 dipping tobacco, snus, nicotine gel, nicotine lollipops, propylene glycol, vegetable glycerin or any other
13 such preparation of tobacco; and any product or formulation of matter containing biologically active
14 amounts of nicotine that is manufactured, sold, offered for sale or otherwise distributed. "Alternative
15 nicotine product" excludes cigarettes, smokeless tobacco, or other tobacco products as these terms are
16 defined in Section 1 of the Illinois Prevention of Tobacco Use by Minors and Sale and Distribution of
17 Tobacco Products Act, 720 ILCS 675/1, et seq., and any product approved by the United States Food and
18 Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco
19 dependence product, or for other medical purposes, and is being marketed and sold solely for that approved
20 purpose.

21 *Endorsement:* A provision added to a tobacco license altering its scope or application. Any endorsement
22 shall be subject to conditions as the city treasurer shall deem appropriate. Endorsements to a tobacco license
23 include the ability to sell alternative nicotine product, alternative tobacco product or vapor products.

24 *Electronic smoking device:* Any electronic and/or battery-operated device, the use of which may resemble
25 smoking that can be used to deliver a dose of an alternative nicotine product or vapor product. "Electronic

1 smoking device" includes, but is not limited to, any such electronic smoking device, whether manufactured,
2 distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe,
3 hookah pipe, product vaporizer, atomizer, tobacco and/or nicotine delivery system, or any other such device
4 or delivery system, regardless of the details of the product appearance or marketed name. The term does
5 not include any product specifically approved by the United States Food & Drug Administration for use in
6 the mitigation, treatment, or prevention of disease.

7 *Tobacco products* means any substance containing tobacco leaf, including but not limited to, cigarettes,
8 cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, as well as cigarette papers or wrappers.

9 *Vape sShop* means any premise ~~dedicated~~ whose primary purpose is to display, sell, distribute, offer, or
10 market electronic smoking devices, equipment or components, liquid nicotine, liquid nicotine containers or
11 vapor as their primary source of revenue. Primary purpose means that fifty (50%) percent or more of the
12 revenues of the establishment are from the sale of electronic smoking devices, equipment or components,
13 liquid nicotine, liquid nicotine containers or vapor products.

14 *Vape sShop endorsement* means an endorsement to a tobacco license to sell, distribute or market alternative
15 tobacco product, vapor product or alternative nicotine product.

16
17 *Vending machine* means any mechanical, electric or electronic, self-service device which, upon insertion
18 of money, tokens or any other form of payment, dispenses tobacco products.

19 (Ord. No. O18-032, 3-27-18)

20
21 **Sec 13-9 Licenses and Endorsements**~~Cigarette, Tobacco, Alternative Nicotine Product Or Vapor~~
22 **Products Dealer's License**

1. No person shall sell tobacco products, alternative nicotine product, vapor products or electronic smoking devices in any form in the city without a tobacco license, ~~and an alternative nicotine product or vapor product dealer's~~ a vape shop license endorsement issued by the city treasurer.
2. Any person desiring such a license and endorsement shall first make written application for that purpose to the city treasurer in which shall be set forth the full name of the applicant and the locations at which such sales are proposed to be made as well as such other information as may be necessary for the city to conduct an appropriate background check. However, no such background check shall be required if the applicant is concurrently the holder of a valid city liquor license. If the city treasurer is satisfied upon the conclusion of such background check that the applicant is of good character and reputation and is a suitable person to be entrusted with the sale of tobacco products, he shall cause a license to be issued to such applicant upon payment to the city of the annual license fee specified in section 13-2.
3. A tobacco license authorizes the person therein named to expose for sale, sell or offer for sale tobacco at the place designated therein. ~~A tobacco licensee may also apply for an endorsement to~~ sell alternative nicotine product, vapor products or electronic smoking devices only at the place designated therein.
4. No license required by this chapter shall be issued or renewed to the following:
 1. A person who is indebted to the city or other governmental entity for payment of any fees, charges, bills or taxes which he is obligated to pay but have remained unpaid for more than forty-five (45) days.
 2. A person who has been convicted of a felony under any federal or state law.
 3. A person who has been convicted of a violation of any federal, state or city law concerning the possession or sale of tobacco, alternative nicotine product or vapor products or has forfeited his bond to appear in court to answer to any charges for any violation.
 4. A person who within one (1) year of application for a tobacco, alternative nicotine product or vapor product dealer's license has been convicted of, plead guilty to, or been placed on

1 supervision for any tobacco, alternative nicotine product or vapor product related offense
2 shall be considered not of good character and reputation.

3 5. A person whose place of business is conducted by a manager or agent unless such manager
4 or agent possesses the same qualifications required of the licensee, including a background
5 check for both licensee and manager or agent.

6 6. A person who does not own the premises for which a license is sought, or does not have a
7 lease thereon for the full period for which the license is issued.

8 5. A tobacco, ~~alternative nicotine product or vapor product~~ license and any applicable endorsements,
9 granted herein, is nontransferable and is valid only for the person(s) or business entity and location
10 specified in the license application.

11 1. If licensee changes business location, licensee must obtain a new license and any applicable
12 endorsements prior to engaging in the sale and distribution of tobacco, alternative nicotine
13 product, vapor products or electronic smoking devices at the new location.

14 2. Any sale, transfer, or assignment of fifty (50) percent or more of the ownership of a
15 business, or the death of a shareholder, member and/or partner with fifty (50) percent or
16 more interest, in a business shall terminate the license. The new owner shall be required to
17 obtain a new license and any applicable endorsements prior to engaging in the sale and
18 distribution of tobacco, alternative nicotine product, vapor products or electronic smoking
19 devices. For purposes of this section, whether the sale, transfer or assignment of fifty (50)
20 percent or more of a business interest occurs in one (1) or more transactions is not relevant
21 to the termination of the license.

22 2.3. Effective _____, no new vape shop endorsements may be issued to any establishment
23 that is less than two thousand six hundred forty (2,640) feet from another licensed vape
24 shop establishment, measured from property line to property line where there is an existing
25 licensed vape shop in the same single shopping center, plaza or strip mall, without the
26 applicant obtaining approval by the city treasurer or designee for the issuance of said

1 endorsement as set forth herein. Current vape shop establishments located within two
2 thousand six hundred forty (2,640) feet or within the same single shopping center, plaza or
3 strip mall with a vape shop endorsement in effect at the time of adoption of this section
4 shall be renewed yearly so long as the license is issued to the current owners. Any sale,
5 transfer, or assignment of more than fifty (50%) percent of ownership of a business or
6 partnership shall terminate said license. In the event that such license is held in the name
7 of a corporation, the sale, transfer or assignment of fifty percent (50) of the stock shall
8 terminate the license. An alternative nicotine product, vapor product, electronic smoking
9 endorsement shall not be located closer than 2,640 feet property line to property line from
10 another licensed and endorsed location.

11 6. It shall be the responsibility of each licensee to be informed regarding all laws, federal, state or
12 local, applicable to tobacco, alternative nicotine product, vapor product or electronic smoking
13 device retailing.

14 1. A license or endorsement issued contrary to this article, contrary to any other law, or on
15 the basis of false or misleading information supplied by a proprietor shall be revoked
16 pursuant to the applicable provisions of this article.

17 2. Nothing in this article shall be construed to grant any person obtaining and maintaining
18 a(n) tobacco, alternative nicotine product, or vapor product license any status or right other
19 than a limited, conditional privilege to act as a tobacco, alternative nicotine product, vapor
20 product or electronic smoking device retailer at the location identified on the face of the
21 license. Nothing in this article shall be construed to vest in any person obtaining and
22 maintaining a tobacco, alternative nicotine product, or vapor product license any status or
23 right to act as a tobacco, alternative nicotine product, vapor product or electronic smoking
24 device retailer in contravention of any applicable law.

25 7. Any licensee who has been convicted of a felony under any federal or state law, any misdemeanor
26 in which tobacco, alternative nicotine products, vapor products or electronic smoking device were

1 involved or any violation listed in subsections (d)(1)—(4) above shall notify the mayor of such
2 conviction. Such notification shall be made within thirty (30) days after the sentencing for the
3 conviction.

4 (Ord. No. O18-032, 3-27-18)

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