

Exhibit A

ARTICLE III. TOBACCO DIVISION 1. GENERALLY

Sec. 4-195. Legislative findings; construction and interpretation.

The Village President and Board of Trustees expressly find and declare that:

- (1) Cigarette smoking is dangerous to human health;
- (2) There exists substantial scientific evidence that the use of tobacco products, tobacco related products, or alternative nicotine 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 director of the National Institute on Drug Abuse concluded that the majority of the 320,000 Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent;
- (5) The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of illicit drug use by adolescents;
- (6) The present legislative scheme of prohibiting sales of tobacco products, tobacco related products, or alternative nicotine products to persons under 21 years of age has proven ineffective in preventing such persons from using tobacco products, tobacco related products, or alternative nicotine products; and
- (7) The enactment of this article directly pertains to and is in furtherance of the health, welfare and safety of the residents of the village, particularly those residents under 21 years of age.

This section shall be liberally construed to the end that the health, safety and welfare of the residents of the village shall be protected, and temperance in the use of tobacco products, tobacco related products, or alternative nicotine products shall be fostered and promoted.

Sec. 4-196. Definitions.

- (a) When not otherwise qualified, the term "license" or "licensee" wherever used in this article means a license or licensee of the village under this article. In addition, unless the context otherwise requires, terms used in this article shall have the definitions in the following state acts:

- (1) The Cigarette Tax Act, 35 ILCS 130/1 *et seq.*
 - (2) The Tobacco Products Tax Act of 1995, 35 ILCS 143/10-1 *et seq.*
 - (3) The Smoke-Free Campus Act, 110 ILCS 64/1 *et seq.*
 - (4) The Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*
 - (5) The Smokeless Tobacco Outdoor Advertising Act, 410 ILCS 75/0.01 *et seq.*
 - (6) The Prevention of Tobacco Use by Persons Under 21 Years of Age and Sale and Distribution of Tobacco Products Act, 720 ILCS 675/0.01 *et seq.*
 - (7) The Display of Tobacco Products Act, 720 ILCS 677/1 *et seq.*
 - (8) The Prevention of Cigarette and Electronic Cigarette Sales to Persons Under 21 Years of Age Act, 720 ILCS 678/1 *et seq.*
 - (9) The Tobacco Accessories and Smoking Herbs Control Act, 720 ILCS 685/1 *et seq.*
- (b) When used in this article, the term “state tobacco and related products acts” means the state acts in subsection (a) of this section.
- (c) TOBACCO PRODUCTS means tobacco in all its forms, including but not limited to: cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff or snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings, and sweeping of tobacco, and all other kinds and forms of tobacco prepared in such manner so as to be suitable for snuff, chewing, smoking, and/or otherwise ingested to any degree by any means, and tobacco purchased or offered for sale for the manufacture of cigarettes, and any paraphernalia designated, designed for, or that could be used, or is intended to be used, for the ingestion of tobacco to any degree, whether by inhalation or other means.
- (d) TOBACCO RELATED PRODUCTS means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, clove cigarettes, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body by inhalation; but does not include any cessation product specifically approved by the U.S. Food and Drug Administration for treating nicotine or tobacco dependence.

- (e) ALTERNATIVE NICOTINE PRODUCTS means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Examples include but are not limited to: electronic cigarettes, personal vaporizers, electronic nicotine delivery systems, liquid nicotine and all other vapor products. Alternative nicotine products excludes cigarettes, smokeless tobacco, or other tobacco products.
- (f) ANCILLARY TOBACCO SALES means a retail establishment in which the sale of non-tobacco-related products is the primary function. Ancillary tobacco sales retailers sell products other than tobacco, tobacco related products, and alternative nicotine products as their primary business.
- (g) TOBACCO STORE means a retail store utilized primarily for the sale of tobacco, tobacco related products, and alternative nicotine products, and in which the sale of products other than tobacco, tobacco related products, and alternative nicotine products is incidental.

Sec. 4-197. Local tobacco control commissioner.

- (a) Village president to serve as local commissioner. The village president shall be the local tobacco control commissioner responsible for administration of this article and state law and may appoint other persons to assist in the exercise of these powers and responsibilities.
- (b) Compensation. The village board shall determine and pay compensation to the local tobacco control commissioner in consideration of the performance of the commissioner's duties.
- (c) Powers and duties. The local commissioner, pursuant to 65 ILCS 5/11-20-3, shall have the power and duty to:
 - (1) Grant and revoke for cause all local licenses issued to persons for premises within the village, which cause shall specifically include, but not be limited to, a licensee's failure to operate the licensed premises for 30 consecutive days.
 - (2) Enter or authorize any law enforcement or code enforcement officer to enter at any time upon the premises licensed under this article to determine whether the provisions of this Code or the state tobacco and related products acts or any rule or regulations adopted by the state tobacco control commission have been or are being violated, and at such times to examine the premises of the licensee in connection therewith;

- (3) Receive complaints from any citizen of the village that any provision of this Code or the state tobacco and related products acts have been or are being violated, and to act upon such complaint in the manner provided by law;
- (4) Ensure that all tobacco retailer license fees shall be paid;
- (5) Examine or cause to be examined under oath any applicant for a village license or for renewal of a license or any licensee upon whom notice of revocation has been served;
- (6) File an administrative review action challenging a decision of the state tobacco control commission, reducing or vacating any license revocation, suspension or fine imposed on a tobacco retailer licensee by the local tobacco control commissioner;
- (7) Keep or cause to be kept a record of all licenses issued; and
- (8) Exercise all other powers, functions and duties given to the local commissioner by state law.

Sec. 4-198. Village officials not to accept gifts.

The local tobacco control commissioner, and agents, members of a committee appointed by the commissioner to assist in local control, members of the board of trustees and police officers are prohibited from soliciting or accepting any gift, gratuity, emolument, or employment from any licensee. Every licensee or employee, agent or officer of such licensee is prohibited from offering or making any such gift, gratuity, or emolument to any person prohibited from accepting any such gift, gratuity, or emolument.

Sec. 4-199. Complaint of violations.

- (a) Any resident of the village shall have the right to file a complaint with the local commissioner stating that any retail licensee has been or is violating any provisions of this section or any of the state tobacco and related products acts. Such complaint shall be in writing and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provisions believed to have been violated and detailed facts to support the alleged violation.
- (b) If the local commissioner is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, local commissioner shall set the matter for hearing and shall serve notice upon the licensee of the time and place of such hearing and of the particulars charged in the complaint.

Sec. 4-200. Responsibility of owner of premises.

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such person, shall knowingly permit the licensee to use the premises in violation of the terms of the applicable provisions of this section or any of the state tobacco and related products acts, the owner, agent or other person shall be deemed guilty of violating this section to the same extent as such licensee and shall be subject to the same penalties.

Sec. 4-201. Acts of agent or employee.

Every act or omission constituting a violation of any provision of this section or any of the state tobacco and related products acts, by any officer, director, manager, agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee. The employer or licensee shall be punishable as if the act or omission had been done or omitted by the employer or licensee personally.

Secs. 4-202 – 4-225. Reserved.

DIVISION 2. LICENSES

Sec. 4-226. License required.

- (a) No person shall sell, offer for sale, or possess with intention to sell at retail in the village any tobacco products, tobacco related products, or alternative nicotine products or accessories without a tobacco retailer's license from the village, in addition to a state license.
- (b) No person shall sell or offer for sale at retail in the village any tobacco products, tobacco related products, or alternative nicotine products or accessories in violation of the terms of the license or in violation of any provision of this article or the state tobacco and related products acts.
- (c) The disbursement of tobacco products, tobacco related products, or alternative nicotine products or accessories without a license at any gathering, party or other public or private affair when admission is charged for entrance, whether or not an additional charge is made for disbursement of tobacco products, tobacco related products, or alternative nicotine products or accessories, shall constitute a violation of this article.

Sec. 4-227. Issuance restricted.

Tobacco retailer licenses shall only be issued to businesses in nonresidential zoning districts.

Sec. 4-228. Application; nonrefundable processing fee.

- (a) An applicant for a license or for renewal of a license from the village shall submit an application to the local tobacco control commissioner. All new applications for a license shall include a nonrefundable processing fee in the amount provided by the village fee schedule.
- (b) The application shall be in writing, under oath, and signed by the applicant if an individual; or if the application is on the behalf of a partnership, firm, association, club or corporation, then it shall be signed and sworn to by at least two members of such partnership; or by the president and secretary of such firm, club, association or corporation. The application shall state:
 - (1) For individual or partnership applicants, the name, age and address of the applicant and all persons entitled to share in the business' profits, along with a copy of any partnership agreement.
 - (2) For corporate or limited liability company applicants, the entity name, date of incorporation or organization, business address, names and addresses of all individuals owning five percent or more of the entity, and proof of good standing from the Secretary of State.
 - (3) For club applicants, the club name, date of incorporation, club address, the names and addresses of all officers, number of members, and objects for which it was organized.
 - (4) The citizenship of the applicant, place of birth, and if a naturalized citizen, the time and place of naturalization.
 - (5) A description of the business or operation where the license is to be used and the desired license class.
 - (6) The length of time that applicant has been in that business or operation and the date when the business or operation opened or proposes to open for business in the village.
 - (7) Whether the applicant has ever applied for a tobacco retailer license at another location. If the number of such applications exceeds five, only those five geographically nearest the village need be listed.
 - (8) An affirmation that the applicant has never been convicted of a felony and is not disqualified by state, federal or local law to receive a tobacco retailer license.

- (9) A description of all instances where a tobacco retailer license issued to the applicant has been revoked or suspended.
 - (10) An affirmation that the applicant is familiar with federal and state law and this Code as they relate to retailers of tobacco products, tobacco related products, or alternative nicotine products or accessories that the applicant will not violate nor permit their employees or agents to violate this Code or state or federal law in conducting the licensed business.
 - (11) Such additional information as the local tobacco control commissioner may prescribe by rule or regulation consistent with law.
- (c) Upon receipt of a complete license application, the tobacco control commissioner shall determine the appropriate class of license sought by the applicant.

Sec. 4-229. Form of license; licenses apply only to premises for which issued.

Licenses shall clearly indicate the terms of issuance, the name of the licensee, and the location of the premises. Licenses issued under this division shall apply only to the premises described in the application and in the license issued thereon, and only one location shall be so described in each license.

Sec. 4-230. License is solely personal privilege subject to limitations.

A license shall be purely a personal privilege and shall be subject to all the limitations and privileges set forth in this Code and the state tobacco and related products acts.

Sec. 4-231. Term of license.

Every license shall terminate on April 30 next following its issuance unless sooner revoked or suspended. There shall be no rebate for the unexpired term of a license. An application for renewal shall not be considered as such unless made before April 30, and unless submitted with the appropriate fee. No license shall be valid unless the proper fee has been paid.

Sec. 4-232. License fees.

The annual fee for a tobacco retailer's license shall be in the amount provided on the village fee schedule, due on May 1 of each year. The fee for a new license shall be the annual fee reduced in proportion to the number of full months that have expired since the previous May. If a license is suspended, revoked, or relinquished, there shall be no rebate for the unexpired license term. Renewal applications shall not be considered unless submitted before April 30 with the appropriate fee. Tobacco retailer

license fees are in addition to any other license or permit fees applicable to the tobacco retailer licensee's business.

Sec. 4-233. Disposition of fees.

One hundred percent of each license fee shall be credited to the general fund of the village.

Sec. 4-234. Classification of licenses; Limitations on number of licenses.

- (a) Tobacco retailer licenses shall be divided into these classes:
 - (1) Class 1 Tobacco Retailer. Class 1 licenses shall authorize businesses to conduct ancillary tobacco sales as defined in Section 4-196.
 - (2) Class 2 Tobacco Retailer. Class 2 licenses shall authorize the operation of a Tobacco Store as defined in Section 4-196.
- (b) The total number of tobacco retailer licenses issued under this article shall be restricted to the following totals:
 - Class 1 licenses – 17
 - Class 2 licenses – 1
- (c) In granting any license under this chapter, the tobacco control commissioner may impose additional terms and conditions as the commissioner finds necessary, reasonable and consistent with this chapter.

Sec. 4-235. Reduction in available licenses.

- (a) Upon the abandonment, surrender, revocation, or expiration without renewal of any tobacco retailer license issued under this division, the total number of tobacco retailer licenses permitted for the class under which the abandoned, surrendered, revoked, or expired license was issued shall, upon the date of such abandonment, surrender, revocation, or expiration, automatically reduce by the number of licenses abandoned, surrendered, revoked, or permitted to expire without renewal on that date, notwithstanding the number of such licenses permitted pursuant to this division.
- (b) The tobacco control commissioner or the commissioner's designee shall maintain a current tally of the number and category of licenses currently authorized.

Sec. 4-236. Change of location.

- (a) After a license has been granted for a particular premises, the local tobacco control commissioner, upon application by the licensee, may endorse upon the licensee permission to abandon the premises thereon described and to remove the license to other premises described in the endorsement.
- (b) The application for transfer shall be in writing under oath and shall describe the new premises. The reasons for transfer shall be given, and it shall be shown that the new premises complies with the requirements of this Code and the state tobacco and related products acts.

Such location may be changed only upon a written request for a change of location made by the licensee to the tobacco control commissioner. Such request shall include a detailed floor plan of the proposed location, a detailed description of the proposed business operations and an identification of any proposed change of operations at the new location compared to the current location. The tobacco control commissioner shall review the request using the standards for a new tobacco dealer's license in section 4-228 of this division and shall either approve or deny the request within 30 days of receiving the request.

Sec. 4-237. Display.

Every licensee shall cause their license to be framed and hung in plain view in a conspicuous place on the licensed premises.

Sec. 4-238. Suspension, revocation and other penalties.

- (a) The local commissioner may suspend any local license issued by the village or impose a fine if it is determined that the licensee has violated any provision of this Code or the state tobacco and related products acts.
- (b) The local commissioner may revoke any local license issued by the village if it is determined that the licensee is guilty of any such violation on three separate occasions during any 12-month period. In such case there shall be no refund of the license fee.
- (c) The penalties in this section are in addition to any other penalties that may be assessed for a conviction of any such violation in a court of law.
- (d) When any license shall have been revoked, no license shall be granted to any person for the period of one year thereafter for the sale of tobacco products, tobacco related products, or alternative nicotine products or accessories on the premises described in the revoked license.

Secs. 4-239 – 4-267. Reserved.

DIVISION 3. OPERATION AND PREMISES RESTRICTIONS

Sec. 4-268. Peddling.

No person shall peddle tobacco products, tobacco related products, or alternative nicotine products or accessories in the village.

Sec. 4-269. Sale permitted by license.

A tobacco retailer licensee shall be allowed to sell any tobacco product or accessories in the original package, including sales from a vending machine.

Sec. 4-270. Credit sales.

No person shall sell or furnish tobacco products, tobacco related products, or alternative nicotine products or accessories at retail under terms contrary to this Code or the state tobacco and related products acts.

Sec. 4-271. Location restrictions; drive-through sales prohibited.

It is unlawful for any person to sell, offer for sale, give away or deliver tobacco products, tobacco related products, or alternative nicotine products within 100 feet of any school or other building used for education or recreational programs for persons under 21 years of age. It is unlawful for any person to sell, offer for sale, give away or deliver tobacco products, tobacco related products, or alternative nicotine products by the use of a drive-up or a drive-through window.

Sec. 4-272. Vending machine restrictions.

It is unlawful for any licensee to sell, offer for sale, give away, deliver, or keep with the intention of selling, giving away or delivering tobacco products, tobacco related products, or alternative nicotine products by the use of a vending machine, unless such vending machine has a manual, electric or electronic locking device controlled by the licensee to prevent its operation by persons under 21 years of age.

Secs. 4-273 – 4-294. Reserved.

DIVISION 4. PACKAGING

Sec. 4-295. Refilling original packages.

No licensee shall refill in whole or in part, any original tobacco product or accessories.

Sec. 4-296. Minimum size cigarette packaging.

- (a) No licensee shall sell or offer for sale any quantity of cigarettes smaller than which is packaged by the original manufacturers packaging of a single package of cigarettes. All single packages of cigarettes must be sold with the original manufacturers seal unbroken and with the original packaged quantity of cigarettes intact at the time of sale. (Single packages of cigarettes commonly packaged as 20 cigarettes and commonly called “a pack of cigarettes”).
- (b) Foreign and uncommon brands of cigarettes may be offered for sale in packages of quantities smaller than 20 cigarettes. However, foreign and uncommon brands of cigarettes must be sold in quantity no smaller than the manufacturers original single package of these brands of cigarettes, and with the original single packaging seal unbroken.

Sec. 4-297. Minimum size cigar packaging.

- (a) No licensee shall sell or offer for sale any quantity of cigars smaller than which is packaged by the original manufacturers packaging of a single sale of the particular cigar.
- (b) All single packages of cigars or individual sale cigars must be sold with the original manufacturers seal unbroken and with the original packaged quantity of cigars, (one or more), intact at the time of sale. Cigars for individual sale must remain individually wrapped as by the manufacturer, for sale as a single cigar.
- (c) This section shall not apply to retail tobacco stores as defined in 410 ILCS 82/10.

Sec. 4-298. Minimum size smokeless tobacco packaging.

No licensee shall sell or offer for sale any quantity of any smokeless tobacco product that is not in the original manufacturers packaging for single package sale, with the original manufacturers seal unbroken and with the original packaged quantity intact at the time of sale. The term “smokeless tobacco products, tobacco related products, or alternative nicotine products” includes, but is not limited to, any finely cut, ground, powdered, or leaf tobacco, intended to be placed in the oral cavity.

Sec. 4-299. Minimum size packaging of all tobacco products, tobacco related products, or alternative nicotine products and accessories.

- (a) All tobacco products, tobacco related products, or alternative nicotine products and accessories covered under this Code or the state tobacco and related products acts, shall only be offered for sale by licensees in the original manufacturers packaging for single package sale, with the original

manufacturers seal unbroken and with the original packaged quantity intact at the time of sale.

(b) This section shall not apply to retail tobacco stores, as defined in 410 ILCS 82/10.

Secs. 4-300 – 4-316. Reserved.

DIVISION 5. PERSONS UNDER AGE 21

Sec. 4-317. Sales or possession of tobacco or smokeless tobacco to or by minors.

No one under 21 years of age shall buy or possess any tobacco products, tobacco related products, or alternative nicotine products. No person shall sell, buy for, distribute samples of or furnish any tobacco products, tobacco related products, or alternative nicotine products to anyone under 21 years of age.

Sec. 4-318. Sales to persons under 21 years of age.

In connection with the sale or distribution of tobacco products, tobacco related products, or alternative nicotine products or accessories, to any person under 21 years of age, licensees shall be subject to all regulations, prohibitions and penalties in this Code and the state tobacco and related products acts.

Sec. 4-319. Employment of persons under 16 years of age.

- (a) No person under 16 years of age shall sell tobacco products, tobacco related products, or alternative nicotine products or accessories as an employee of any licensee, except as permitted by 720 ILCS 675/1. For purposes of this section, the terms “sale” or “sell” shall include, but not be limited to, operating the cash register, scanning device or any other equipment used to record the purchase of tobacco products, tobacco related products, or alternative nicotine products or accessories, and the receipt of money, checks, credit cards or any other form of payment for the purchase of tobacco products, tobacco related products, or alternative nicotine products or accessories.
- (b) The requirement for sales personnel to be 16 years of age or older may not be avoided by asking or permitting patrons to perform any part of the sale transaction.
- (c) No person under 16 years of age shall possess tobacco products, tobacco related products, or alternative nicotine products or accessories as an employee of a licensee other than as authorized by law.
- (d) No licensee shall permit any of the acts prohibited in this section.

Sec. 4-320. Prohibited transactions.

- (a) It is unlawful for any person to sell, offer for sale, give away or deliver tobacco products, tobacco related products, or alternative nicotine products and or accessories to any person under 21 years of age.
- (b) Any person to whom the sale, gift or delivery of any tobacco product or accessories is prohibited because of age, or for any other reason, except as an authorized agent for compliance enforcement, shall not purchase, or accept a gift of such tobacco products, tobacco related products, or alternative nicotine products or accessories or have such tobacco products, tobacco related products, or alternative nicotine products or accessories in their possession. All such persons shall be subject to all restrictions, prohibitions and penalties of this Code and the state tobacco and related products acts.

Sec. 4-321. Underage possession of tobacco.

No person under 21 years of age shall be in possession of any tobacco products, tobacco related products, or alternative nicotine products within the village, except as an authorized agent for compliance enforcement or as permitted by the state tobacco and related products acts.

Sec. 4-322. Responsibility of parents.

It is unlawful for any parent or guardian to knowingly suffer or permit their child under 21 years of age to violate any provision of this section of this Code or the state tobacco and related products acts.

Sec. 4-323. Responsibility of the owner or occupant of premises to ensure compliance.

- (a) It is unlawful for any owner or occupant of any premises, residential or otherwise, within the village, to knowingly allow any person under 21 years of age to remain on such premises while in the possession of tobacco products, tobacco related products, or alternative nicotine products or accessories, or while using any tobacco products, tobacco related products, or alternative nicotine products in violation of section 4-321.
- (b) It is unlawful for any such owner or occupant on such premises to knowingly sell or give tobacco products, tobacco related products, or alternative nicotine products or accessories to any person under 21 years of age or to knowingly allow tobacco products, tobacco related products, or alternative nicotine products or accessories to be given to any person under 21 years of age while on such premises, in violation of section 4-321.

Sec. 4-324. 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, tobacco related products, or alternative nicotine products or accessories and on or upon every vending machine that offers tobacco products, tobacco related products, or alternative nicotine products for sale. Each sign shall be plainly visible and shall state: "The sale of tobacco products, tobacco related products, or alternative nicotine products to persons under 21 years of age is prohibited by law."