

**ORDINANCE NO. 2025-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF INDEPENDENCE, IOWA, BY AMENDING PROVISIONS PERTAINING TO CIGARETTE AND TOBACCO PERMITS**

Be It Enacted by the City Council of the City of Independence, Iowa:

**SECTION 1. CHAPTER MODIFIED.** Chapter 121 of the Code of Ordinances of the City of Independence, Iowa, is repealed and the following adopted in lieu thereof:

**CHAPTER 121**

**CIGARETTE AND TOBACCO PERMITS**

|               |                        |               |                                      |
|---------------|------------------------|---------------|--------------------------------------|
| <b>121.01</b> | <b>Definitions</b>     | <b>121.07</b> | <b>Expiration</b>                    |
| <b>121.02</b> | <b>Permit Required</b> | <b>121.08</b> | <b>Refunds</b>                       |
| <b>121.03</b> | <b>Application</b>     | <b>121.09</b> | <b>Persons Under Legal Age</b>       |
| <b>121.04</b> | <b>City Approval</b>   | <b>121.10</b> | <b>Self-Service Sales Prohibited</b> |
| <b>121.05</b> | <b>Fees</b>            | <b>121.11</b> | <b>Permit Revocation</b>             |
| <b>121.06</b> | <b>Issuance</b>        |               |                                      |

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:  
*(Code of Iowa, Sec. 453A.1)*

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarettes shall not be construed to include cigars.
3. “Department” means the State Department of Revenue.
4. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

8. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

#### **121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13(1))*

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A(1))*

3. Device Retailer Permits. It is unlawful for any person to engage in the business of a retailer of devices, as defined by Section 453E.1(6)(a) of the *Code of Iowa*, within the City.

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

*(Code of Iowa, Sec. 453A.47A(4))*

**121.03 APPLICATION.** A retailer shall submit to the department an application on forms furnished by the department, accompanied by the required fees and adequate bond as provided in Section 453A.14, of the *Code of Iowa*. Applications, any supporting documentation, and the associated fees shall be submitted electronically to the department.

*(Code of Iowa, Sec. 453A.13(5))*

**121.04 CITY APPROVAL.** The City may approve retail permit applications for applicants with a place of business within the City limits. The City shall use the electronic portal of the department to process retail permit applications. Upon approval of a retail permit application by the City the department shall issue the permit to the applicant on behalf of the City.

*(Code of Iowa, Sec. 453A.13(2))*

**121.05 FEES.** The fee for a retail cigarette or tobacco permit shall be as shown in the Fines and Fee Schedule in Section 1.15.

*(Code of Iowa, Sec. 453A.13(3)(b) and 453A.47A(7))*

**121.06 ISSUANCE.** Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable.

*(Code of Iowa, Sec. 453A.13(9))*

**121.07 EXPIRATION.** All permits shall expire on June 30 of each year. A permit shall not be granted or issued until the applicant has paid the fees to the department for the next period ending on June 30.

*(Code of Iowa, Sec. 453A.13(3)(a))*

**121.08 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13(4) and 453A.47A(8))*

**121.09 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36(6))*

**121.10 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.11 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the department within 30 days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the City Council of Independence, Iowa, on this \_\_\_\_\_

day of \_\_\_\_\_ 2025.

\_\_\_\_\_  
Brad Bleichner, Mayor of the City of Independence, IA

ATTEST:

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Susi Lampe, CMC, IaCMC, IaCFO,  
Assistant City Manager/City Clerk/Treasurer of the City of Independence, IA

First Reading:           September 8, 2025  
Second Reading:        \_\_\_\_\_  
Third Reading:          \_\_\_\_\_

I certify that the foregoing was published as Ordinance No. 2025-\_\_\_\_\_ on the \_\_\_\_\_ day  
of \_\_\_\_\_ 2025.

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Susi Lampe, CMC, IaCMC, IaCFO,  
Assistant City Manager/City Clerk/Treasurer of the City of Independence, IA

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