

**AN ORDINANCE REGARDING
THE LICENSE AND REGULATION
OF TOBACCO AND INDUSTRIAL HEMP DEALERS**

WHEREAS, the City of Rolling Meadows, as a home rule unit of local government as provided by Article VII, Section 6(a) of the Illinois Constitution of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, it is the legislative findings of the Corporate Authorities of the City that:

The use of products containing nicotine, such as cigarettes and tobacco, is dangerous to human health, especially that of adolescents;

The use of electronic cigarettes, hookah (water pipes), and other nicotine delivering devices is increasing, especially among youth, and these products are being marketed and advertised in ways that appeal to youth;

Even "vaping" products that do not directly contain nicotine have been found to contain toxic chemicals that are harmful to human health, such as diacetyl, heavy metals, and volatile organic compounds;

Products derived from industrial hemp, such as cannabidiol (CBD) and delta-8-THC (tetrahydrocannabinol), are commonly sold in the same manner and location as products containing nicotine and may carry similar risks to public health that are not yet clear due to their inadequate evaluation and study;

The number of establishments engaged in the specialty retail trade of the foregoing products is increasing in the City, which makes these products more easily accessible and which increases their advertisement and marketing to the City's residents;

The display of these products plays a crucial role in the decision of individuals, especially minors, to begin using or to resume use of these products, and the reasonable restriction of the time, place, and manner of the display of these products at commercial establishments within the City through narrowly tailored regulations will reduce the harms associated with their sale as well as the likelihood that persons, particularly youth, will begin to use these products habitually while affording retailers ample opportunity to convey information about their products to adult consumers; and,

WHEREAS, the City finds that additional legislative actions are necessary in order to protect the public health, safety, morals, and welfare of the residents of the City and particularly those residents under 21 years of age; and,

WHEREAS, the City desires to adopt further business regulations concerning the sale of tobacco products, industrial hemp products such as CBD

and delta-8-THC, vaping devices, and related paraphernalia (collectively, "**Regulated Products**" as further defined in **Exhibit A** to this Ordinance), including limitations upon the number and location of such establishments; and

WHEREAS, the City also desires to increase the readability and ease of use and administration of the Municipal Code by consolidating and clarifying its existing regulations that are applicable to the sale of Regulated Products; and

WHEREAS, the Corporate Authorities of the City of Rolling Meadows have determined that it is in the best interest of the City and its residents to amend the Municipal Code concerning Regulated Products as set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Rolling Meadows, Illinois:

Section 1: The recitals set forth above are incorporated herein by reference.

Section 2: Division 2, entitled "Cigarette and Tobacco Dealers," of Article II, entitled "Merchants," of Chapter 22, entitled "Businesses" is hereby comprehensively amended and replaced in its entirety with **Exhibit A** attached to and, by this reference, made a part of this Ordinance.

Section 3: Division 1, entitled "Generally," of Article V, entitled "Tobacco Products," of Chapter 70, entitled "Offenses and Miscellaneous Provisions," is hereby repealed in its entirety and reserved for future use.

Section 4: Section 22-3, entitled "Engaging in more than one line of business", of Chapter 22, entitled "Businesses," is hereby amended to read as follows [additions are **bold and double-underlined**; deletions are struck through]:

"Every person engaged in any category of business or occupation specified in this chapter shall pay the highest fee for any such occupation or business in which so engaged, which shall entitle the licensee to engage in any other business or occupation licensed under this chapter without procuring additional licenses as provided for in this chapter, with the exception of an alcoholic liquor establishment, tobacco **and industrial hemp** dealer, food dealer or automobile filling station for which a separate license must be procured as provided in this Code."

Section 5: Section 22-24, entitled "License and permit period", of Chapter 22, entitled "Businesses," is hereby amended to read as follows [additions are **bold and double-underlined**; deletions are struck through]:

"* * *

(b) The term for licenses required for ~~cigarette and tobacco~~ **and industrial hemp** dealers, coin-operated devices, and vending machines shall be from January 1 to December 31.

* * *"

Section 6: Section XII, entitled "Business licenses," of Appendix B, entitled "Schedule of Rates, Fees, Fines and Penalties" of the Rolling Meadows Municipal Code is hereby amended to:

- A. Delete the fees provided for "Cigarette and Tobacco Sales."
- B. Delete the fees provided for "Vending-Tobacco, per machine."
- C. Insert the following new section and fees, to be located between "Warehouse/Industrial/Distribution" and "Specific Use Fees":

	Annual Fee	New Business
Tobacco and Industrial Hemp Dealers		
Accessory Retailer	\$150.00	\$75.00
Specialty Shop	\$500.00	\$250.00
Smoking Lounge	\$750.00	\$375.00

Section 7. The City's license officer is hereby directed to issue any newly required license of the appropriate type without further application or fee to any business that (i) is lawfully licensed and operating in the City as of the effective date of this Ordinance; and (ii) is required to obtain an additional or different classification of license to conduct their business as a result of the passage of this Ordinance. Each such business shall be required to make an application and pay the otherwise applicable fee upon their next regular renewal.

Section 8: If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

Section 9: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

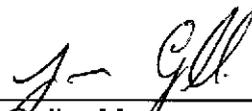
PASSED AND APPROVED by the City Council of Rolling Meadows, Cook

County, Illinois this 11th day of April, 2023.

AYES: Vinezeano, Bisesi, Reyez, Sanoica, McHale, Budmats, O'Brien

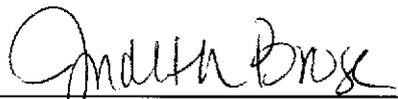
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ABSENT: 0



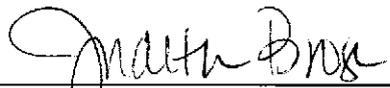
Joe Gallo, Mayor

ATTEST:



Judith Brose, Deputy City Clerk

Published this 14th day of April, 2023.



Judith Brose, Deputy City Clerk

EXHIBIT A

New Chapter 22, Article II, Division 2

DIVISION 2. TOBACCO AND INDUSTRIAL HEMP DEALERS

Sec. 22-106 **Definitions.**

Whenever in this Division 2 the following words and phrases are used, they shall, for the purposes of this Section, have the meanings respectively ascribed to them in this Section, except when the context otherwise clearly indicates.

Whenever in this Title other words are used, those other words shall have the meanings normally ascribed to them:

ACCESSORY RETAILER. A commercial establishment that engages in the retail sale of Regulated Tobacco or Nicotine Products in a manner that is accessory and incidental to the establishment's primary trade in other goods, wares, or merchandise. Specialty Shops and Smoking Lounges are not Accessory Retailers.

REGULATED PRODUCTS. Any of the following classes of goods and products:

- A. **Tobacco or Nicotine Products.** Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. "Tobacco or nicotine products" include, without limitation: cigarettes, cigars, cigarillos or little cigars, chewing tobacco, pipe tobacco, snuff, cartridges, cartomizers, e-liquid, and smoke juice.
- B. **Industrial Hemp Products.** Any product containing, made, or derived from industrial hemp as defined in the Industrial Hemp Act (505 ILCS 89/1 *et seq.*) that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. "Industrial hemp products" are commonly advertised or represented as containing extracts of CBD (cannabidiol), delta-8-THC (tetrahydrocannabinol), or other substances derived from the *cannabis sativa L.* plant.
- C. **Vaping Devices.** Any electronic device that delivers nicotine, industrial hemp products, or other substances to the person inhaling from the device. "Vaping devices" include, without limitation: electronic cigarettes, electronic cigars, electronic pipes, electronic hookahs, and vape pods.
- D. **Paraphernalia.** Any item, component, part, or accessory that is designed, marketed, intended, or reasonably expected to be used with any of the foregoing Regulated Products. "Paraphernalia" includes, without limitation: smoking pipes, water or "hookah" pipes, cigarette papers or wrappers, rolling machines, tips, atomizers, batteries, and chargers.
- E. **Exclusions.** The following are not Regulated Products:

1. Any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
2. Any product regulated by the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1 *et seq.*) or the Cannabis Regulation and Tax Act (410 ILCS 705/1 *et seq.*); and any product sold by a dispensing organization licensed pursuant to either Act.

REGULATED TOBACCO OR NICOTINE PRODUCTS. The class of "Regulated Products" excluding therefrom Industrial Hemp Products.

SPECIALTY SHOP. A commercial establishment that engages in the retail sale of Regulated Products and has ten percent (10%) or more of its square feet in the establishment used for the sale or display of Regulated Products.

SMOKING LOUNGE. A commercial establishment or portion thereof where Regulated Products are used by persons on the premises. A "smoking lounge" shall not include any private residence.

TOBACCO AND INDUSTRIAL HEMP DEALER. A business or person holding any of the licenses set forth in Section 22-107 of this Division 2.

Sec. 22-107 License required; classes of licenses.

- A. **Accessory Retailer License.** No business or person shall operate as an Accessory Retailer without holding a valid Accessory Retailer License.
- B. **Specialty Shop License.** No business or person shall operate as a Specialty Shop without holding a valid Specialty Shop License.
- C. **Smoking Lounge License.** No business or person shall operate as a Smoking Lounge without holding a valid Smoking Lounge License. A Smoking Lounge License further authorizes the same licensed premises to operate as a Specialty Shop without any additional license.

Sec. 22-108 Restriction upon number and location of licenses.

- A. **Class and Number.** The total number and classification of licenses to be issued by the City pursuant to this Division 2 shall be, unless otherwise changed by action of the City Council:

License Class	Number Authorized
Accessory Retailer	- No limit applies -
Specialty Shop	7
Smoking Lounge	0

If any license of any class subject to a numeric limit is not renewed or the license is surrendered, canceled, revoked, suspended, or otherwise terminated, such license shall be rescinded and not be restored, and the total number of licenses of that class to be issued by the City shall be reduced accordingly without further action.

B. **Specialty Shop Location Restrictions.** No Specialty Shop license shall be newly issued, renewed, or transferred to any new location unless (i) it satisfies the location requirements of at least one of the following location categories; and (ii) it would not exceed the respective maximum number of licenses provided for each location category:

Location Category	Number Authorized
Algonquin Road Corridor: Between Barker Avenue and Golf Road, and within 200 feet of the right-of-way of Algonquin Road.	2
Kirchoff Road Corridor: Between Owl Drive and Oriole Lane, and within 200 feet of the right-of-way of Kirchoff Road.	2
Euclid & Plum Grove: Within the area bounded by Bryant Avenue; Brockway Street; Euclid Avenue; and Plum Grove Road.	2
Lying west of Illinois Route 53 and south of Algonquin Road.	1

If any license of any location category is not renewed or the license is surrendered, canceled, revoked, suspended, or otherwise terminated, such license shall be rescinded and not be restored, and the total number of licenses of that location category to be issued by the City shall be reduced accordingly without further action.

C. **Location Buffer.** Unless waived by the City Council by resolution duly adopted, no license for a Specialty Shop or Smoking Lounge shall be newly issued or transferred to any new location such that the establishment would be located within the following buffer distances, as measured from lot line to lot line:

- a. 2,000 feet from any existing Specialty Shop or Smoking Lounge.
- b. 1,000 feet from any school grounds, playground, recreation center or facility, public park, or public library.

D. **No Location Transfers.** No license issued under this Division 2 may be transferred to a different location unless approved by the City Council. The transfer fee provisions of Article 1 of this Chapter apply to any transfers authorized by the City Council.

Sec. 22-109 Character of applicant; ineligibility.

Pursuant to Section 22-12, the chief of police shall investigate applicants to hold any license under this Division 2 to determine if they satisfy the character and criminal history standards provided by this Section. Applicants for a license under this Division 2 who possess or are concurrently applying for a liquor license under Chapter 6 (Alcoholic Beverages) may be subject to a single background check to determine eligibility for both licenses.

No license required by this Division 2 shall be issued to persons, firms, partnerships or corporations should any of the following be found by in the course of reviewing an application for initial license issuance or renewal, and the

same shall be grounds for possible revocation if discovered during the course of the year for which the license has been issued:

1. A person with an ownership interest or responsible for management of the applicant's establishment who is not of good character and reputation in the community in which he resides.
2. A person with an ownership interest or responsible for management of the applicant's establishment who is not a legal resident of the United States.
3. A person who has been convicted of a felony under any federal or state law, if the chief of police determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust. The burden of proof of sufficient rehabilitation shall be on the applicant.
4. A person, partnership, or corporation that has failed to maintain their establishment in compliance with the standards of all pertinent sections of the City Code.
5. A person with an ownership interest or responsible for management of the applicant's establishment who has been convicted of being the keeper of or is keeping a house of ill fame.
6. A person with an ownership interest or responsible for management of the applicant's establishment who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
7. A person with an ownership interest or responsible for management of the applicant's establishment whose license issued under this division has been revoked for cause.
8. A person with an ownership interest or responsible for management of the applicant's establishment who, at the time of application for renewal of any license issued under this article, would not be eligible for such license upon a first application.
9. A co-partnership or any general partnership thereof or any limited partnership thereof owning more than five percent of the aggregate limited partnership interest in such co-partnership if such co-partnership or any such general partnership or any such limited partnership would not be eligible to receive a license under this article for any reason other than residence.
10. A corporation:
 - i. If any officer, manager or director thereof or any stockholder owning in the aggregate more than five percent of the stock of such corporation would not be eligible to receive a license under this article for any reason other than citizenship and residence within the city.

- ii. Unless it is incorporated in this state or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in this state.

Sec. 22-110 Additional contents of application.

Applications for any license under this Division 2 shall contain the following in addition to the generally applicable requirements of Section 22-9, and the application shall be made under oath:

1. The name, principal domicile address, sex, date of birth, Social Security Number, driver's license number, position, and percentage of ownership in the business of every sole owner, partner, corporate officer, director, manager and any person who owns five percent or more of the shares of the applicant business entity or parent corporations of the applicant business entity.
2. For a copartnership, the date of the formation of the partnership; for a corporation in this state, the date of its incorporation; or for a foreign corporation, the state where it was incorporated and the date of it becoming qualified under the Business Corporation Act of 1983, 805 ILCS 5/1.01 et seq., to transact business in this state. A certificate shall accompany the application from the Illinois Secretary of State's office or equivalent for firms incorporated in other states, noting that the corporation is in good standing with their office.
3. The number, the date of issuance, and the date of expiration of the applicant's State Tobacco Products Retailer License or Cigarette and Tobacco Products Retailer License.
4. The name and address of the landlord if the premises are leased, and a copy of the lease that would be in force for the period of time for the license being sought.
5. The date of the applicant's first request for a license under this Division 2 and whether it was granted, denied, or withdrawn.
6. The address of the applicant when the first application for a license under this Division 2 was made.
7. The date the applicant began any Regulated Product sales at their place of business (renewal only).
8. The applicant's retailer's occupation tax (ROT) registration number (renewal only).
9. Whether the applicant is delinquent in the payment of the State of Illinois Retailer's Occupational Tax (sales tax), and if so, the reasons therefor (renewal only).
10. Whether the applicant has made an application for a license under this Division 2 or the cigarette or tobacco licensing regulations of any other jurisdiction which has been denied, and if so, the reasons therefor.

11. Whether the applicant has ever had any license under this Division 2 or the cigarette or tobacco licensing regulations of any other jurisdiction suspended or revoked, and if so, the reasons therefor.
12. Whether the applicant has ever been convicted of a misdemeanor, gambling offense or felony, and if so, and the particulars thereof.
13. The name(s), telephone numbers, social security numbers, driver's license numbers, date of birth, and principal domicile addresses of managers of the existing or proposed establishment.
14. The names and addresses of any other establishments dealing in Regulated Products formerly (i.e. within the last ten years) or currently being operated by the applicant.

Sec. 22-111 Operating regulations.

Each establishment licensed pursuant to this Division 2 shall operate in the following manner at all times, and failure to do so shall be grounds for possible revocation of the applicable license:

- A. **Sanitation.** Premises and buildings used for the sale of Regulated Products shall be kept in a clean and sanitary condition.
- B. **Record of Sales Data.** Each licensee must keep sales data, by product, on the percentage, dollar value, and number of units sold for each Regulated Product. Such records shall be open for inspection, at all reasonable times, by the City's Community Development Director or their designee or by any duly authorized member of the City's Police Department.
- C. **No Consumption or Samples.** Except in the case of a Smoking Lounge, no smoking, sampling, testing, or other use of any Regulated Product shall take place on the licensed premises.
- D. **No Exterior Display of Regulated Products.** After July 1, 2023, a licensee shall not display any Regulated Product, or any packaging, models, or facsimiles of a Regulated Product, in any street window or show window.
- E. **Exterior Signage.** All signs shall conform to the sign regulations set forth in Article X of the Zoning Ordinance.
- F. **Sales of Regulated Tobacco or Nicotine Products.**
 1. **Warning Signage.** Each licensee who engages in the sale of Regulated Tobacco or Nicotine Products shall post substantially the following warning in a conspicuous place visible from either every display or every point of sale for Regulated Tobacco or Nicotine Products. The text of the notice shall be in black or red lettering no less than ½ inch in height, enclosed in a border no less than ¼ inch wide of the same color as the text, and set on a white background:

"THE SALES OF TOBACCO AND NICOTINE PRODUCTS AND ACCESSORIES TO PERSONS UNDER 21 YEARS OF AGE, OR THE MISREPRESENTATION OF AGE TO PURCHASE THESE PRODUCTS, IS PROHIBITED BY LAW."

2. **Payment Required.** A licensee shall not distribute any Regulated Tobacco or Nicotine Product except by completing a sales transaction in exchange for monetary payment. This prohibition applies to, without limitation: free samples, sweepstakes, contests, and games of chance.
3. **No Vending Machines.** A licensee may only sell Regulated Tobacco or Nicotine Products in a direct, face-to-face exchange between the retailer and the consumer.

Sec. 22-112 **Purchase by persons under 21 years of age prohibited.**

It shall be unlawful:

- A. For any person under 21 years of age to purchase any Regulated Tobacco or Nicotine Product, or to misrepresent their identity or age for the purpose of purchasing any Regulated Tobacco or Nicotine Product.
- B. To sell any Regulated Tobacco or Nicotine Product to a purchaser who appears to be under the age of 40, unless the seller first requests and examines the identification of the prospective purchaser and positively establishes the purchaser's age as 21 years or older.
- C. For any person under 21 years of age to display or use a false or forged identification card or transfer, alter, or deface an identification card in the furtherance or facilitation of obtaining any Regulated Tobacco or Nicotine Product.

Sec. 22-113 **Suspension and revocation of license; acts of agents imputed to licensee; hearing.**

- A. Every act or omission of whatsoever nature, constituting a violation of any of the provisions or restrictions of this Division 2, 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 itself; and such licensee shall be punishable in the same manner as if such act or omission had been committed or omitted by the licensee personally.
- B. The mayor or his designee shall be charged with the administration of this Section. In addition to any other penalties that may be provided, and in lieu of the procedure provided in Section 22-40, the mayor may suspend or revoke any license issued pursuant to this Division 2, if he determines that (i) the licensee or any officer, director, manager, or other agent or employee of the licensee, has violated any of the provisions of this Division 2 or (ii) for any cause provided in Section 22-40(a) or 22-40(c).
- C. No license shall be suspended or revoked except after a public hearing, convened by the mayor, no less than seven days after notice to the licensee, affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven-day notice provision shall begin the day following service of a notice of hearing and

complaint. Service shall be by certified mail to the licensed premises or by personal service to the licensee.

- D. The notice of the hearing and the complaint shall be in writing, setting forth the specific grounds of the violation and the time and place of the hearing. At the hearing, the city attorney shall present the complaint and represent the city. The licensee may be represented by counsel, if so desired. The licensee shall have the right to cross-examine witnesses presented on behalf of the city, and the licensee shall be afforded the opportunity to submit evidence in its own defense. All hearings shall be electronically recorded and a record of the hearing shall be maintained by the city. The city shall have the burden of proving its case by a preponderance of the evidence.
- E. The mayor shall, within ten days after the hearing, render a decision as to whether a violation occurred as alleged in the complaint. If the mayor determines by a preponderance of the evidence, that the license should be revoked or suspended, he shall state the reason for such determination in a written order stating findings of fact and conclusions, and/or the period of suspension or that the license has been revoked. A copy of such written findings and order shall be served upon the licensee within seven days after such decision is rendered.
- F. Any licensee adjudged by the mayor to have violated any of the provisions set forth in this Division 2 may, in addition to all other sanctions ordered, be required to pay all or a portion of the costs of conducting the hearing before the mayor on such violation. Costs shall include, but not be limited to: the costs of transcriptions of records, attorneys' fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the city. Any and all fines and/or costs imposed shall be paid by the licensee to the General Corporate Fund of the City within 30 days of issuance of the findings and order. Failure to pay fines and/or costs in a timely manner shall be deemed a violation in and of itself and may be cause for license suspension or revocation and/or the levy of additional fines.
- G. If a license is revoked for cause, unless otherwise provided by order of the mayor, no license provided under this Division 2 shall be granted to any licensee for the period of one year thereafter at the premises described in the order of revocation.

Sec. 22-114 Penalty.

The penalty for a violation of any Section of this Division 2 is the general penalty provided in Appendix B, I. – General Penalty.