

**COMMITTEE ON LICENSE AND CONSUMER PROTECTION.**

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AMENDMENT OF CHAPTERS 4-5, 4-64 AND 7-32 OF MUNICIPAL CODE BY MODIFYING PROVISIONS GOVERNING SELLING AND SAMPLING OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES.

[O2018-2340]

The Committee on License and Consumer Protection submitted the following report:

CHICAGO, April 18, 2018.

*To the President and Members of the City Council:*

Your Committee on License and Consumer Protection, having under consideration an ordinance introduced by Mayor Emanuel and the Commissioner of Public Health (which was referred on March 28, 2018), to amend Chapters 4-5, 4-64 and 7-32 of the Municipal Code of Chicago regarding electronic cigarettes and tobacco products, begs leave to recommend that Your Honorable Body *Pass* the ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committee on April 11, 2018.

Respectfully submitted,

(Signed) EMMA MITTS,  
*Chairman.*

On motion of Alderman Mitts, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Aldermen Moreno, Hopkins, Dowell, King, Hairston, Sawyer, Mitchell, Harris, Beale, Sadlowski Garza, Thompson, Cárdenas, Quinn, Burke, Lopez, Foulkes, D. Moore, Curtis, O'Shea, Cochran, Brookins, Muñoz, Zalewski, Scott, Solis, Maldonado, Burnett, Ervin, Taliaferro, Reboyras, Santiago, Waguespack, Mell, Austin, Ramirez-Rosa, Villegas, Mitts, Sposato, Laurino, O'Connor, Napolitano, Reilly, Smith, Tunney, Arena, Cappleman, Pawar, Osterman, J. Moore, Silverstein -- 50.

*Nays* -- None.

Alderman Beale moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago is a home rule unit of government as defined in Article VII, Section 6(a) of the Illinois Constitution; and

WHEREAS, Pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs, including promoting the quality of life, health, safety, and welfare of its citizens; and

WHEREAS, The City of Chicago has an interest in increasing awareness among youth about the risks associated with use of non-cigarette tobacco products ("other tobacco products" or "OTPs"); and

WHEREAS, Tobacco use is the leading cause of preventable disease and death in the United States; and

WHEREAS, The majority of tobacco use begins in adolescence; and

WHEREAS, The use of OTPs is responsible for thousands of deaths in the United States each year -- including an estimated 9,000 deaths from cigar use alone -- and causes disease in several organ systems, for example:

- Cigar use is associated with cancer of the lung, oral cavity/pharynx, larynx, esophagus and pancreas, as well as coronary heart disease and chronic obstructive pulmonary disease; and
- Smokeless tobacco use is associated with oropharyngeal and digestive system cancers, as well as increased risk for heart disease and stroke, stillbirth and preterm delivery, and Parkinson's disease; and
- Pipe smoking is associated with increased risk of lung, head and neck cancers, as well as heart disease and stroke; and
- Hookah use is associated with increased risk of lung cancer, respiratory illness, periodontal disease, low birth weight, infectious disease, heart disease, and preterm delivery; and

WHEREAS, There is evidence that e-cigarette use is associated with increased heart rate and diastolic blood pressure immediately following use; and increased coughing, wheezing, and asthma exacerbation in youth; and

WHEREAS, Although the effects of long-term use of e-cigarettes are not known, there is substantial evidence that chemicals in e-cigarette aerosols can cause acute endothelial cell dysfunction, oxidative stress, and DNA damage and mutagenesis, making it scientifically possible that long-term use could increase risk for tissue damage and cancer; and

WHEREAS, Research shows that OTPs like cigarillos, cigars and smokeless tobacco all contain addictive levels of nicotine, harmful toxins, and dangerous carcinogens; and

WHEREAS, Although they produce less harmful constituents than combustible cigarettes, there is evidence that e-cigarette aerosols contain toxic substances including carbonyl compounds, volatile organic compounds and carcinogens such as formaldehyde. They also contain addictive levels of nicotine; and

WHEREAS, Exposure to nicotine during adolescence has lasting negative impacts on brain development, affecting addiction, cognition, neural connectivity, and behavioral health. Adolescents can become dependent upon nicotine very soon after starting to use tobacco; and

WHEREAS, According to the U.S. Surgeon General, "the use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe"; and

WHEREAS, Significant disparities in cigar use and frequency of use exist between different races and ethnicities in Chicago, as African-American teens report using cigars on more than two days a month at twice the rate of white teens; and

WHEREAS, In Chicago, Hispanic/Latino and white teens are more likely to use e-cigarettes than African-American teens; and

WHEREAS, Tobacco use among Chicago youth is unacceptably high, particularly the use of OTPs, for example:

- Although teen cigarette use is at an all-time low of 6 percent, more teens now use cigars and e-cigarettes than smoke cigarettes -- 7.2 percent of Chicago youth used cigars and 6.6 percent used e-cigarettes in 2017; and
- 4.5 percent used smokeless tobacco (chewing tobacco, snuff or dip) in 2017; and

WHEREAS, Despite steep declines in cigarette use, youth use of other tobacco products in the United States has risen. For example, the use of e-cigarettes among high school students increased from 1.5 percent in 2011 to 11.3 percent in 2016; and

WHEREAS, Flavored OTPs are popular among youth. For example, 42.4 percent of youth who smoke use flavored cigars or flavored cigarettes. Among youth that currently use e-cigarettes, 71.2 percent started with a flavored product. Research shows that teens who have tried flavored tobacco products even once are 170 percent more likely to be current smokers than those who have never tried flavored tobacco products; and

WHEREAS, The Family Smoking Prevention and Control Act of 2009 prohibited characterizing flavors in cigarettes, other than menthol, but cigars, chew, e-cigarettes and other forms of OTP come in a wide array of fruity, sweet, dessert, beverage and other flavors; and

WHEREAS, Notwithstanding the demonstrated health harms associated with OTP use, research shows that those who use smokeless tobacco and cigars are more likely to believe these products to be less harmful and less addictive than cigarettes:

- 73 percent of youth believe e-cigarettes are less harmful than cigarettes and 47.1 percent believe that they are less addictive; and
- 25.8 percent believe that cigars are less harmful than cigarettes and 31.5 percent believe they are less addictive; and
- 20.2 percent believe that smokeless tobacco is less harmful than cigarettes and 14.0 percent believe it is less addictive; and

WHEREAS, Lower perceived risk of using OTPs is associated with increased likelihood of their use; and

WHEREAS, Youth and young adult use of e-cigarettes is associated with an increased risk of progressing to cigarette smoking, who then may be at risk of suffering the serious health harms associated with smoking. Young people who move from e-cigarettes to combustible cigarettes are at greater risk for increased frequency, intensity and duration of smoking; and

WHEREAS, Research on internal tobacco industry documents and marketing tactics reveals that the tobacco industry has a history of altering tobacco products to appeal to youth and young adults. For example, tobacco companies have made extensive use of cigarette packages to influence consumer perceptions about the potential risks of their product and have altered the flavors of their products to make them taste lighter and reinforce the idea that they are safer; and

WHEREAS, Tobacco companies' internal research found that new, young users would prefer flavored, smokeless tobacco products in order to mask the taste of tobacco and improve mouth feel. The research also found that marketing that stressed flavors and freshness were most successful for prompting initiation; and

WHEREAS, Tobacco companies have manipulated their products to skirt tobacco control measures that aim to reduce youth initiation and use. For example, in response to price increases through taxes, cigar manufacturers have added sepiolite, a clay material found in kitty litter, to the filters of their little cigars to make them heavier and thus taxed at the lower rate applicable to larger cigars, making them cheaper and more appealing to youth; and

WHEREAS, Studies have shown that youth are especially vulnerable to marketing for tobacco products, and that exposure to marketing leads to higher initiation rates; and

WHEREAS, The tobacco industry has an extensive history of deceiving consumers, for example:

- From *United States v. Philip Morris USA, Inc.*, 566 F.3d 1095, 1127 (D.C. Cir. 2009):
  - There is “direct evidence that [the tobacco industry was] aware of the health risks of secondhand smoke”, yet it denied the health risks with statements that were made with “fraudulent intent”; and
  - The tobacco industry engaged in a “campaign of statements intended to mislead the public into believing that giving up smoking is not markedly more difficult than giving up everyday habits”; and
  - While the tobacco industry denied any adverse health impacts of smoking “[it] internally acknowledged as fact that smoking causes disease and other health hazards”; and
- From the Federal Trade Commission, which received complaints about the deceptive practices of cigar manufacturers:
  - “After consideration of the National Cancer Institute’s findings in its Cigar Monograph on the serious health risks of regular cigar use, and the failure of cigar advertising and labeling to disclose these health risks, the Commission negotiated consent agreements with the seven largest cigar companies to implement health warnings on cigar labeling and advertising nationwide”; and

WHEREAS, The tobacco industry’s “‘essential position on the relationship of smoking and health remains virtually unchanged’ from the fraudulent positions it first took in the 1950s”, evidencing a continuing pattern of consumer deception (from Phillip Morris USA); and

WHEREAS, Only 41.2 percent of 12<sup>th</sup> graders believe that there is great harm associated with the regular use of smokeless tobacco, a figure which remained essentially unchanged from 1999 to 2010 and which the Surgeon General attributed to:

- The smokeless tobacco industry’s participation in the debate about the supposed reduction in harm seen in switching from cigarettes to smokeless tobacco; and
- The smokeless tobacco industry marketing their products in a way that subtly suggests they are safer than cigarettes; and

WHEREAS, Cigar users, especially African-American teens, believe that cigars are less harmful than cigarettes, and young adults are more likely to rate cigars as less risky compared to smokeless tobacco products and cigarettes; and

WHEREAS, E-cigarette marketing includes a variety of messages to make the products more appealing, including messages that they are safer, healthier, an alternative to smoking cigarettes or a “new” way to smoke, and that they can be used places where smoking is prohibited. They are marketed using the same tactics that have been used by tobacco companies in the past to promote cigarettes to youth and young adults including flavorings, media channels that have broad reach with young people, and themes highlighting sexual content and customer satisfaction; and

WHEREAS, 51.8 percent of 12<sup>th</sup> graders that used e-cigarettes believed that the vapor contained only flavorings and only 11.1 percent believed it contained nicotine and 60 percent of teens believe that their use causes little or only some harm as long as they aren’t used daily; and

WHEREAS, A 2018 study in Pediatrics showed that many youth who believe “all tobacco products are harmful” do not believe their own tobacco products are harmful -- for instance, if they only use e-cigarettes (74.6 percent), hookah (56.0 percent), smokeless tobacco (41.8 percent), or cigarettes (15.5 percent); and

WHEREAS, The same 2018 study in Pediatrics found that many youth tobacco users do not realize they are using tobacco products at all. Youth in middle and high school who deny using tobacco products at all include 82.2 percent of those who use only roll-your-own or pipe tobacco, 59.7 percent of those who only use e-cigarettes, 56.6 percent of those who only use cigars, 44.0 percent of those who only use hookah, 38.5 percent of those who use only smokeless tobacco, and 26.5 percent of those who use only cigarettes; and

WHEREAS, The City of Chicago has an additional interest in increasing awareness of the availability of cessation assistance; and

WHEREAS, The Clinical Practice Guideline *Treating Tobacco Use and Dependence* recommends that users of smokeless tobacco be “identified, strongly urged to quit, and provided counseling cessation interventions” and that users of cigars, pipes and other non-cigarette forms of tobacco be “identified, strongly urged to quit, and offered the same counseling interventions recommended for cigarette smokers”; and

WHEREAS, Research shows that telephone-based counseling appeals to young adults more than other methods and has been demonstrated to be an effective means of reaching young adult smokers; and

WHEREAS, Studies of quitline advertising in Australia have found that the pairing of health effect and quitline modelling advertisements can increase efficiency in generating calls; and

WHEREAS, Quitlines are an effective intervention specifically recommended by the Community Preventive Services Task Force and supported by over 60 peer-reviewed journal articles; and

WHEREAS, Research has found that, when quitlines are available to the general public, tobacco cessation increases by 3.1 percent, saving a median estimate of \$2,358 per quality-adjusted life year; and

WHEREAS, The Illinois Tobacco Quitline is a government-funded program; and

WHEREAS, The Illinois Tobacco Quitline is trained to help tobacco users to quit; and

WHEREAS, The inclusion of the tobacco quitline number in text warnings on tobacco packaging in the Netherlands and the United Kingdom increased calls to the quitline; and

WHEREAS, Research on health warnings shows that such statements can be effective in changing people's behavior, for example:

- Studies showing that text health warnings on tobacco product packages can increase health knowledge and perceptions of risk, promote smoking cessation among both youth and adults, and discourage nonsmokers from wanting to smoke. The more visible the warning, the greater the effect; and
- Studies show that addiction warnings for e-cigarettes influences consumers' risk perception and decision to try the product; and
- Studies on point-of-sale programs showing that signs, posters, and shelf tags encouraging healthier food options have increased sales of healthy food; and
- International studies showing that new requirements for tobacco product packaging that include information referring people to quitlines have been associated with an increase in calls to the quitlines; and

WHEREAS, The City of Chicago has an additional interest in reducing the accessibility of tobacco to youth; and

WHEREAS, Research suggests that youth who have never used tobacco become more likely to use it after receiving tobacco coupons; now, therefore,

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. Section 4-5-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-5-010 Establishment Of License Fees.

(Omitted text is unaffected by this ordinance.)

## (30) Tobacco per year

Retail tobacco dealer	
Per location	\$250.00
Plus, per cash register	\$165.00
<del>Tobacco Product Sampler</del>	<del>\$660.00</del>
Wholesale tobacco dealer	\$550.00

(Omitted text is unaffected by this ordinance.)

SECTION 2. Section 4-64-100 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting, in correct alphabetical order, the language underscored, as follows:

## 4-64-100 Definitions.

As used in this Chapter 4-64, unless the context clearly indicates that another meaning is intended:

(Omitted text is unaffected by this ordinance.)

“Department of Public Health” means the Department of Public Health of the City of Chicago.

“Electronic cigarette(s)” shall have the meaning ascribed to that term in Section 7-32-010.

(Omitted text is unaffected by this ordinance.)

“Other tobacco product(s)” means any tobacco product other than cigarettes, as those terms are defined in this section.

(Omitted text is unaffected by this ordinance.)

"Tobacco product" means any electronic cigarette as defined herein or component or part thereof or any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from tobacco, which product is intended to enable human consumption of the tobacco or nicotine, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For purposes of this Chapter 4-64, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

(Omitted text is unaffected by this ordinance.)

~~"Tobacco product sampler" means any person engaged in the business of tobacco product sampling, other than a properly licensed retail tobacco dealer who engages in tobacco product sampling on the licensed premises.~~

(Omitted text is unaffected by this ordinance.)

"Underage tobacco violation(s)" means any violation of Section 4-64-345, ~~or Section 4-64-360, or Section 4-64-500(4)(i).~~

(Omitted text is unaffected by this ordinance.)

SECTION 3. Section 4-64-200 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-200 License -- Requirements.

(a) Covered Business Activities -- Unlawful Acts.

(1) No person shall engage in any of the following business activities (for purposes of this section, "covered business activity") without first having obtained a tobacco license under this Chapter 4-64 authorizing the person to engage in such covered business activity: (i) wholesale tobacco dealer; or (ii) retail tobacco dealer; ~~or (iii) tobacco product sampler.~~

(Omitted text is unaffected by this ordinance.)

~~(d) Tobacco Product Sampler — Scope Of Authorized Business Activity. If a tobacco license under this Chapter authorizes the licensee to engage in the business of retail tobacco dealer, such licensee may engage in tobacco product sampling on the licensed premises in accordance with Article V of this Chapter. In all other cases involving tobacco product sampling, a tobacco license under this Chapter authorizing the licensee to engage in the business of tobacco product sampler shall be required, and the holder of such license shall be entitled to distribute tobacco product samples during the term of the license in accordance with Article VI of this Chapter.~~

SECTION 4. Section 4-64-210 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-210 License Application.

Additional Information -- Required When. In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, a renewal of, a tobacco license under this Chapter shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance.)

~~(5) a statement whether the applicant or licensee, as applicable, intends to or does engage in the business of tobacco product sampler at the licensed location [Reserved.];~~

(6) a statement whether the applicant or licensee, as applicable, intends to or does sell, give away, barter, exchange or otherwise deal in tobacco products, ~~tobacco product samples~~, or tobacco accessories;

(7) a statement whether the applicant or licensee, as applicable, intends to sell, give away, barter, exchange or otherwise deal in flavored tobacco products, ~~samples of flavored tobacco products~~ or accessories for flavored tobacco products;

(Omitted text is unaffected by this ordinance.)

(9) a statement whether: (1) the applicant or licensee, as applicable, or (2) any person with a substantial ownership or controlling interest in the applicant or licensee, or (3) the parent, child, sibling, spouse or domestic partner of the applicant or licensee has ever had any license under this Chapter 4-64 not renewed for any reason set forth in Section ~~9-64-940~~ 4-64-940;

(Omitted text is unaffected by this ordinance.)

SECTION 5. Section 4-64-220 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-220 Departmental Duties -- Inspections, Investigations, ~~And Reports~~ And Other Responsibilities.

(Omitted text is unaffected by this ordinance.)

(f) The Department of Public Health shall design and approve for content a warning sign for other tobacco products. At a minimum, such warning sign shall include the following information:

- (1) The logos of the City and Department of Health;
- (2) Text which reads: "Warning";
- (3) Factual information about other tobacco products and the adverse or potentially adverse effects of their use;
- (4) A statement that "Help is Available" or equivalent text;
- (5) Information about how to contact a quitline for nicotine addiction or other addictions, diseases or conditions associated with the use of other tobacco products; and
- (6) The date on which the warning sign was issued or most recently updated by the Department of Public Health.

The Department of Public Health and Department of Business Affairs and Consumer Protection shall: (i) post, on their respective websites, the warning sign for other tobacco products approved under this subsection by the Department of Public Health; and (ii) make such warning sign available for viewing, posting, downloading and printing.

SECTION 6. Section 4-64-230 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-64-230 License Issuance And Renewal -- Prohibited When.

No tobacco license under this chapter shall be issued to any person under the following circumstances:

(Omitted text is unaffected by this ordinance.)

(2) if applicant or licensee, as applicable: (i) intends to or does sell, give away, barter, exchange or otherwise deal in tobacco products, ~~tobacco product samples~~ or tobacco accessories at the licensed location, and (ii) such location has a property line within 100 feet of the property line of any building or location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age, as set forth in Section 4-64-515(a) or Section 4-64-615(a), as applicable;

(3) if the applicant or licensee, as applicable: (i) intends to sell, give away, barter, exchange or otherwise deal in flavored tobacco products, ~~flavored tobacco product samples~~ or accessories for such products at the licensed location, and (ii) such location has a property line within 500 feet of the property line of any public, private or parochial secondary school located in the City of Chicago, as set forth in Section 4-64-515(b) or Section 4-64-515(b), as applicable. Provided, however, that this prohibition on license issuance shall not apply to: (1) retail tobacco stores, as set forth in Section 4-64-515(b) or Section 4-64-515(b), as applicable; or (2) renewals of licenses existing as of December 31, 2016, as set forth in Section 4-64-515(c)(1) or Section 4-64-515(c)(1), as applicable; or (3) applications for a new tobacco license to engage in the business of retail tobacco dealer pursuant to a purchase of a retail tobacco business at a location that holds such a license on or after December 31, 2016, as set forth in Section 4-64-515(c)(2) or Section 4-64-515(c)(2), as applicable;

(Omitted text is unaffected by this ordinance.)

SECTION 7. The header of Article III of Chapter 4-64 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

Article III.

All Tobacco Licensees -- Duties And Prohibitions

~~Prohibited Acts~~ (4-64-300, et seq.).

SECTION 8. Section 4-64-340 of the Municipal Code of Chicago is hereby repealed in its entirety and replaced with a new Section 4-64-340, underscored as follows:

4-64-340 Distribution Of Tobacco Product Samples And Tobacco Coupons --  
Prohibited When.

(a) No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product or tobacco product sample on any public street, alley or sidewalk, or in any public park, public ground or playground, or in any building or other area open to the public.

(b) No person shall give away, barter, exchange, distribute or in any way dispense on any public street, alley or sidewalk, or in any public park, public ground or playground, or in any building or other area open to the public any coupon or other price reduction instrument for any free or nominally priced tobacco product or tobacco product sample. This subsection (b) shall not apply to coupons or price reduction instruments included in newspapers, magazines or other publications or received by a person through the mail or on-line.

SECTION 9. Section 4-64-345 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-345 Furnishing Tobacco Products Or Tobacco Accessories To Minors --  
Prohibited.

No person shall sell, give away, barter, exchange or otherwise furnish any tobacco product ~~products, tobacco product samples~~ or tobacco accessories at retail or otherwise ~~for consumption~~ to any individual under 21 years of age.

SECTION 10. Section 4-64-500 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-500 Additional Legal Duties -- Retail Tobacco Dealers.

In addition to the applicable legal duties set forth in Chapter 4-4 of this Code and in Article III of this chapter, each licensee engaged in the business of retail tobacco dealer shall have the following duties:

(Omitted text is unaffected by this ordinance.)

(4) Warning Sign For Other Tobacco Products -- Required.

(i) If the licensee sells other tobacco products at the licensed location, the licensee shall post a current and legible warning sign meeting the requirements of this paragraph (4)(i). Such warning sign shall: (a) be posted by the licensee at each public entrance to the licensed premises; and (b) be clearly visible to all persons entering the licensed premises. The warning sign required under this paragraph (4)(i) shall be: (A) designed and approved for content by the Department of Public Health in accordance with subsection (f) of Section 4-64-220; (B) made available to the licensee on the respective websites of the Department of Public Health and Department of Business Affairs and Consumer Protection, for viewing, downloading, printing and posting by the licensee.

(ii) The Department of Business Affairs and Consumer Protection and Department of Public Health are authorized to enforce this paragraph (4).

(iii) Prior to promulgating rules to implement this paragraph (4), the Department of Business Affairs and Consumer Protection shall consult with the Department of Public Health; provided, however, that the Department of Public Health shall be exclusively responsible for the content of the warning sign, which shall meet the minimum standards in Section 4-64-220(f), and for promulgating rules pertaining to its content.

SECTION 11. Section 4-64-515 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-64-515 Prohibited Locations -- Retail Tobacco Dealers.

(a) No licensee engaged in the business of retail tobacco dealer shall sell, give away, barter, exchange or otherwise deal in tobacco products, ~~tobacco product samples~~ or tobacco accessories at any location that has a property line within 100 feet of the property line of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age.

(b) No licensee engaged in the business of retail tobacco dealer shall sell, give away, barter, exchange, or otherwise deal in flavored tobacco products, ~~flavored tobacco product samples~~, or accessories for such products at any location that has a property line within 500 feet of the property line of any public, private, or parochial secondary school located in the City of Chicago. This subsection (b) shall not apply to retail tobacco stores. For purposes of this subsection, "retail tobacco store" has the meaning ascribed to that term in Section 7-32-010.

(Omitted text is unaffected by this ordinance.)

SECTION 12. The header of Article VI of Chapter 4-64 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

Article VI.

~~Tobacco Product Samplers (4-64-600, et seq.)~~ [Reserved.]

SECTION 13. Section 4-64-600 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 14. Section 4-64-615 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 15. Section 4-64-700 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-64-700 Use Of Improper Identification To Purchase Tobacco Products -- Prohibited.

(a) It shall be unlawful for any individual under the age of 21 years to misrepresent his or her identity or age, or to use any false or altered identification, for the purpose of purchasing tobacco products, ~~tobacco product samples~~, or tobacco accessories.

(b) It shall be unlawful for any person to give to any individual under the age of 21 years any identification card not duly issued to such individual, for the purpose of enabling that individual to buy tobacco products, ~~tobacco product samples~~, or tobacco accessories.

SECTION 16. Section 4-64-820 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-820 Coupons Prohibited.

No person shall:

(a) honor or accept a price reduction instrument in any transaction related to the sale of a tobacco product to a consumer;

(Omitted text is unaffected by this ordinance.)

(d) In addition to any other penalty provided by law: (i) any person who violates subsection (a) of this section shall be punished by the fine set forth in Section 4-64-900; and (ii) any person who violates subsection (b) or (c) of this section shall be punished by the fine set forth in Section 4-64-905.

SECTION 17. Section 4-64-900 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-900 Fines -- Specific Offenses.

(Omitted text is unaffected by this ordinance.)

(b) Except as otherwise provided in subsection (c) of this section, and in addition to any other penalty provided by law, any person found liable of violating Sections 3-42-060, 3-42-100, 4-64-200(a), 4-64-300, 4-64-310, 4-64-315, 4-64-340, 4-64-400(1), 4-64-500(1), 4-64-500(2), 4-64-500(3), 4-64-510(1), 4-64-515, 4-64-520, 4-64-600(3), 4-64-615 or, 4-64-710 or 4-64-820(a) or any rule duly promulgated thereunder shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(Omitted text is unaffected by this ordinance.)

SECTION 18. Section 4-64-905 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-905 Fines -- Price Floor, Coupon Prohibition, And Package Size Violations.

Except as otherwise provided in Section 4-64-820(d), and in addition to any other penalty provided by law: Any person ~~convicted of~~ found liable for a first offense for violating Article VIII of this chapter or any rule promulgated thereunder shall be punished by a fine of not less than \$1,000.00 nor more than \$2,000.00. Any person ~~convicted of~~ found liable for a second offense, occurring within five years of the first offense, for violating Article VIII of this chapter or any rule promulgated thereunder shall be punished by a fine of not less than \$2,500.00 nor more than \$3,500.00. Any person ~~convicted of~~ found liable for a third offense, occurring within five years of the first offense, for violating Article VIII of this chapter or any rule promulgated thereunder shall be punished by a fine of not less than \$5,000.00 nor more than \$7,500.00. Each day that a violation continues shall constitute a separate and distinct offense. For purposes of this section, multiple violations occurring on the same date shall be deemed a single violation.

SECTION 19. Section 4-64-910 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-64-910 Fines -- Underage Tobacco Violations.

(Omitted text is unaffected by this ordinance.)

(b) Violations Of Section 4-64-360 And Section 4-64-500(4)(i). Any person who violates ~~Section~~ Sections 4-64-360 or 4-64-500(4)(i) shall be punished by a fine of not less than \$200.00 nor more than \$500.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

SECTION 20. Section 4-64-935 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-935 License Revocation -- Required When.

(a) In addition to any other penalty provided by law, if a person commits or has committed any combination of three or more violations within any 24-month period of Sections 3-42-020, 3-42-025, 3-42-060, 3-42-100, 4-64-330, 4-64-340, 4-64-345, 4-64-360, 4-64-400(1), 4-64-500(1), 4-64-500(3), 4-64-500(4)(i), 4-64-710, 4-64-810, 4-64-820 and 4-64-830, the Commissioner shall revoke that person's licenses. If a person commits two or more violations within any 48-month period of Section 4-64-350, the Commissioner shall revoke that person's licenses. For purposes of this section: (1) "licenses" includes any and all licenses issued by the City of Chicago to engage in business operations at the location at which the violations occurred; (2) multiple offenses occurring on the same date shall be deemed a single violation while offenses occurring on separate dates shall be deemed separate violations; and (3) a "violation" may include a finding of liability or a finding sustaining the offense or offenses charged in the same or in any contemporaneous proceeding or evidence of any previously resolved final disposition against the licensee on a charge brought pursuant to one of the Code provisions listed above including but not limited to any finding of liability after adjudication on the merits, any default finding of liability, any uncontested finding of liability, any negotiated pre-hearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge. A person subject to revocation pursuant to this subsection shall be entitled to the process described in Section 4-4-280, with the condition that any revocation hearing shall be limited to the issue of whether the licensee's record and the resolution of any pending charges in the same or contemporaneous proceedings, if applicable, accurately reflect the existence of a sufficient number of violations to support the revocation decision. The licensee shall not be permitted to challenge the previously resolved violations themselves, nor any underlying facts asserted or determined therein.

(Omitted text is unaffected by this ordinance.)

SECTION 21. Section 4-64-940 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-940 Nonrenewal Of Licenses.

(a) In addition to any other penalty provided by law, if a licensee under this chapter commits or has committed any combination of three or more violations within any 24-month period of Sections 3-42-020, 3-42-025, 3-42-060, 3-42-100, 4-64-340, 4-64-345, 4-64-360, 4-64-400(1), 4-64-500(1), 4-64-500(3), 4-64-500(4)(i), 4-64-515, 4-64-615, 4-64-710, 4-64-810, 4-64-820 and 4-64-830, the licensee shall be subject to

nonrenewal of the license. If a person commits two or more violations within any 48-month period of Section 4-64-350, the licensee shall be subject to nonrenewal of the license. The Commissioner may decline to renew such license, subject to the procedure described in subsection (b) of this section. For purposes of this section, multiple offenses occurring on the same date shall be deemed a single violation, while offenses occurring on separate dates shall be deemed separate violations, and "violation" means any final disposition against the licensee on a charge brought pursuant to one of the Code provisions listed above, including but not limited to any finding of liability after adjudication on the merits of the charge, any default finding of liability, any uncontested finding of liability, any negotiated pre-hearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge.

(Omitted text is unaffected by this ordinance.)

SECTION 22. Section 7-32-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-32-010 Definitions.

(Omitted text is unaffected by this ordinance.)

"Retail tobacco store" means a retail establishment: (1) that derives more than 80 percent of its gross revenue from the sale, in any combination, of loose tobacco, cigarettes, cigarillos, cigars, pipes, other smoking devices and accessories, hookahs and related products, and/or or electronic cigarettes and related products, components or parts thereof; and (2) in which the sale of other products other than those listed in item (1) of this definition is merely incidental. ~~The term "Retail retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of a liquor, or retail food establishment, or restaurant license.~~

(Omitted text is unaffected by this ordinance.)

SECTION 23. This ordinance shall take full force and effect 150 days after its passage and publication.