

Local Law 1 of 2017

CHAPTER 52: TOBACCO AND TOBACCO PRODUCTS

Section 52-1 Findings, Legislative intent.

The Board of Trustees hereby finds and determines that the sale of tobacco and tobacco related products to individuals under the age of 21 years should be prohibited in the Village of Port Washington North in order to:

- A. Further the goals of New York State's tobacco use prevention and control program, as identified in New York State Public Health Law Section 1399-ii;
- B. Respond to the fact that tobacco is the leading cause of preventable death and disease in New York State;
- C. Respond to findings made by the institute of Medicine, which prepared a report at the request of the U.S. Food and Drug Administration entitled "Public Health implications of Raising the Minimum Age of Legal Access to Tobacco Products" concluding and suggesting that:
 - (1) Adolescent brains are uniquely vulnerable to the effects of nicotine;
 - (2) A younger age of initiation is strongly associated with greater nicotine dependence and is also associated with greater intensity and persistence of smoking beyond adolescence and into adulthood;
 - (3) Almost one in five high school seniors is a current cigarette and/or tobacco user;
 - (4) Underage users rely primarily on social sources such as friends and family, to acquire tobacco, and most of these sources are likely to be between 18 and 20 years of age;
 - (5) Raising the minimum legal age to 21 will mean that those who can legally obtain tobacco are less likely to be in the same social networks as high school students;
 - (6) Delaying initiation rates will likely decrease the prevalence of tobacco users in the U.S. populations; and
 - (7) Raising the minimum legal age will likely immediately improve the health of adolescents and young adults by reducing the number who suffer with adverse physiological effects:

- D. Respond to findings that most (nearly 90%) of those addicted to tobacco, start using tobacco before 21 years of age;
- E. Respond to the growing rates of electronic cigarette use among youth, which expose users to unhealthy levels of nicotine and other unknown harmful chemicals;
- F. Reduce the exposure of our youth to disease-causing toxins in secondhand smoke and in chemicals emitted from electronic cigarettes, liquid nicotine, shisha, herbal cigarettes, and other age-restricted products as defined herein;
- G. Prevent exposure of youth, who are particularly susceptible to addiction, to the chemically addictive effects of tobacco and related products, in an effort to improve public wellness and reduce health insurance expenditures;
- H. Protect young Village residents from the unregulated and unknown effects of electronic cigarettes, herbal cigarettes, and other age restricted products;
- I. Act in furtherance of a 2016 report from the Centers for Disease Control and Prevention, which recommended that states and communities work to limit where and how e-cigarettes are sold;
- J. Respond to findings made by the Centers for Disease Control and Prevention that e-cigarette use among teens tripled between 2013 and 2014, and from 2011 to 2015, the use of e-cigarettes increased nearly 10 times for high schoolers. E-cigarettes are now the primary form of tobacco use among teens. Furthermore, the Centers for Disease Control and Prevention reports that, after e-cigarettes and cigarettes, hookah tobacco is the third most popular form of tobacco used by middle schoolers;
- K. Respond to findings made by the Centers for Disease Control and Prevention, which prepared a report entitled "Tobacco use among Middle and High School Students-United States. 2011-2015," concluding that:
- i. Electronic nicotine delivery system (ENDS) use among teens has surged in recent years, and now stands at 16 percent among high school students. ENDS are the most commonly used tobacco product among high school students; and
 - ii. In 2015, 8.6 percent of high school students were current cigar smokers; 11.5 percent of boys and 5.6 percent of girls. High School boys smoke cigars at a higher rate than cigarettes.
- L. Respond to finding that e-cigarettes and similar devices pose health hazards and may contribute to youth smoking and reduced cessation, regardless of nicotine content since the devices contain or produce chemicals other than nicotine known to be toxic, carcinogenic

and causative of respiratory and heart distress. E-cigarettes and similar devices look identical whether they contain nicotine or not, and as a result, their use not only normalizes e-cigarette use but also renormalizes tobacco addiction and use of tobacco products, like combustible cigarettes; and

M. Protect young Village residents from smokeless tobacco products, which according to the Centers for Disease Control and Prevention are known to cause lung, larynx, esophageal, and oral and pancreatic cancers. According to the National Institute on Drug Abuse, a dip of smokeless tobacco typically contains 3-5 times more nicotine than a cigarette. Research shows that smokers have difficulty switching from cigarettes to smokeless tobacco resulting in many users becoming dual users of both cigarettes and smokeless products.

Section 52-2 Definitions.

Unless otherwise expressly stated, the following terms shall, for purposes of this Chapter, have the meanings assigned to them in this section. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular. Any term used in, but not defined in, this Chapter shall have the meaning assigned to it in New York State Public Health Law Article 13-F.

ACCESSORY

(1) Any product that is intended or reasonably expected to be used with or for the human consumption of a tobacco product; does not contain tobacco and is not made or derived from tobacco; and meets either of the following:

(a) Is not intended or reasonably expected to affect or alter the performance, composition, constituents, or characteristics of a tobacco product; or

(b) Is intended or reasonably expected to affect or maintain the performance, composition, constituents, or characteristics of a tobacco product but solely controls moisture and/or temperature of a stored tobacco product or solely provides an external heat source to initiate but not maintain combustion of a tobacco product.

(2) Accessory includes, but is not limited to, carrying cases, lanyards and holsters.

AGE-RESTRICTED PRODUCTS

Tobacco products, shisha, herbal cigarettes, electronic aerosol delivery systems, and smoking paraphernalia; and all other products prohibited from being sold to minors by New York State Public Health Law Article 13-F, as the same may be amended from time to time.

COMPONENT OR PART

Any software or assembly of materials intended or reasonably expected to alter or affect the tobacco product's performance, composition, constituents, or characteristics; or to be used with or for the human consumption of a tobacco product, "component or part" excludes anything that is an accessory of a tobacco product, and includes, but is not limited to, e-liquids, cartridges, certain batteries, heating coils, programmable software and flavorings for electronic aerosol delivery systems.

ELECTRONIC AEROSOL SYSTEM

An electronic device that, when activated produces an aerosol that may be inhaled, whether or not such aerosol contains nicotine. Electronic Aerosol Delivery System includes any component or part but not accessory, and any liquid or other substance to be aerosolized, whether or not separately sold. Electronic Aerosol Delivery System does not include drugs, devices, or combination products, as those terms are defined in the Federal Food Drug Cosmetic Act, that are authorized by the State of New York or U.S. Food and Drug Administration for sale.

ENFORCEMENT OFFICER

Any police officer, any Nassau County Department of Health Inspector, and any building official from the Port Washington North Building Department, code enforcement officer, county health inspector or other employees of the Village of Port Washington North authorized by the Board of Trustees to enforce this Chapter.

SHISHA

Any product made primarily of tobacco or other leaf or herbs, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe.

SMOKING PARAPHERNALIA

Any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco.

TOBACCO PRODUCT

Any product made or derived from tobacco or which contains nicotine marketed or sold for human consumption, whether consumption occurs through inhalation, or oral or dermal absorption, including cigarettes, cigars, chewing tobacco, powdered tobacco, bidis, gutka, other tobacco products including nicotine water. Tobacco product does not include drugs, devices or combination products, as those terms are defined in the Federal Food, Drug and Cosmetic Act, authorized by the State of New York or U.S. Food and Drug Administration for sale.

VILLAGE

The Village of Port Washington North

Section 152-3 Prohibited acts.

- A. No person shall sell or permit the sale of age restricted products to any person under the age of 21.
- B. The identification requirements contained in New York State Public Health Law Article 13-F Section 1399-cc(3), as the same may be amended from time to time, are hereby incorporated into this Chapter by this reference, except that the age to be proven by such identification shall be twenty-one (21).
- C. Age-restricted products may not be sold in vending machines located in the Village of Port Washington North.
- D. No person operating a place of business within the Village wherein age restricted products are sold or offered for sale shall sell, Permit to be sold, offer for sale or display for sale any age-restricted product in any manner, unless such age-restricted product is stored for sale:
- (1) Behind a counter in an area accessible only to the personnel of such business or
 - (2) In a locked container, provided however, such restriction shall not apply to tobacco businesses as defined in subdivision eight of Section 1399-aa of New York State Public Health Law Article 13-F, as the same may be amended from time to time, and to places to which admission is restricted to persons twenty-one years of age or older.

Section 152-4 Posting of signs.

- A. No person shall sell or permit the sale of an age-restricted product in the Village unless a notice is posted in a conspicuous place at the location where the age-restricted product is sold.
- B. The sign shall provide notice, which shall state: "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA. BIDIS, GUTKA OR OTHER TOBACCO PRODUCTS, HERBAL COGARETTES, LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS, OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LOCAL LAW."
- C. Such sign shall be printed on a white card in red letters at least one-half inch in height. Signs shall be protected from tampering, damage, removal, or concealment.

Section 152-5 Enforcement.

Any enforcement officer is authorized to enforce and ensure compliance with this Chapter.

Section 152-6 Violations and Penalties

Each and every violation of, or failure to comply with. Any provision of this Chapter shall constitute a violation, punishable as follows: for a conviction of a first offense, by a fine not to exceed \$250.00, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment; for a conviction of a second offense, both of which were committed within a period of five years, by a fine not less than \$250.00, nor more than \$500.00, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment; and for a conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine not less than \$500.00, nor more than \$1000.00, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment.

Section 152-7 Severability

If any clause, sentence, paragraph, subdivision, section or part of this Chapter or the application thereof to any person, individual, corporation, firm, partnership or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, then such order or judgment shall not effect impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Chapter, or in its specific application.

Section 152-8 Effective Date.

This local law shall take effect immediately.