

ARTICLE V Electronic Smoking or Vapor Devices

Editor's Note: Former Art. V, Ice, was repealed 4-1-1987 by Ord. No. 11-1987.

§ 90-21. Definitions.

ELECTRONIC SMOKING or VAPOR DEVICE — An **electronic** smoking device **that** can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an **electronic** cigarette, cigar, cigarillo, hookah, pipe or any cartridge or other component of the device or related product.

ELECTRONIC SMOKING or VAPOR DEVICE OPERATION — Any establishment, person, entity or business **that** sells **electronic** smoking or vapor devices including, but not limited to, an **electronic** cigarette, cigar, cigarillo, hookah, pipe or other smoking or vapor device, or any cartridge or other component of the device or related product.

(New)

§ 90-22. Right of entry.

It shall be lawful for any member of the Township Department of Health, the Health Officer, Health Inspectors or any person acting under and by the authority of the Township Department of Health to enter in and upon any premises within the Township in the exercise of the powers or in the fulfillment of its or their duties conferred or imposed by law or township ordinance and the rules and regulations thereunder. Any person hindering, obstructing, delaying, resisting, preventing or interfering with such right of access shall be deemed to violate the provisions of this article. (New)

§ 90-23. License required; fees; inspection.

- A. It shall be unlawful for any person(s) or any corporate body to conduct an **electronic** smoking or vapor device operation, as defined in 90-21 herein without first having procured a **license** from the Health Officer.
- B. No person shall carry on, conduct or operate an **electronic** smoking or vapor device operation within the Township without first obtaining a **license** therefor from the Health Officer as outlined in § 90-24 and § 90-25.
- C. The annual **license** fee to be paid for an **electronic** smoking or vapor device establishment shall be as provided in Chapter 75, Fees.
- D. **Electronic** smoking or vapor device operations are subject to periodic compliance inspections by the health department. Fees for the re-inspection of any operation which is necessitated by violations of any of the provisions set forth in this article observed during the initial inspection shall be as provided in Chapter 75, Fees.
- E. **Electronic** smoking or vapor device operations must be conducted inside a place of business located within a retail zone. A **license** will only authorize sales of related devices or products at the place of business identified on the application.

F. It shall be unlawful for the **electronic** smoking or vapor device operation to allow the use or sampling of the devices or related products in the public right of way or in an egress where pedestrians or customers must pass **that** falls within the storefront occupied by the operation or **that** fall in front of businesses in the same building **that** directly neighbor the said operation.

(New)

§ 90-24. Application for license; renewal license.

- A. Application for an **electronic** smoking or vapor device operation shall be submitted on forms to be furnished by the Health Officer. The application shall be accompanied by the applicable **license** fee in cash, check or money order.
- B. A renewal **license** may be applied for by a licensee for premises licensed during the previous licensed period.
- C. Each and every applicant for a **license** for an **electronic** smoking or vapor device operation shall set forth the following information in writing on forms provided by the Health Officer:
- (1) The applicant's name, business name, business address, applicant's phone number and the business's phone number.
 - (2) The applicant's email address.
 - (3) If the applicant is an individual, the applicant's residence address.
 - (4) If the applicant is a partnership, corporation, limited liability company, or any other type of business entity, the applicant shall set forth the full name and residence address of each partner, member or officer of the business entity.
 - (5) If the applicant is a partnership, corporation, or limited liability company, the applicant must submit a certificate from the State of New Jersey **that** the business entity, regardless of form, is in good standing, according to the records of the State of New Jersey.

(New)

§ 90-25. Issuance of license; contents; expiration date.

- A. The granting of an **electronic** smoking or vapor device establishment **license** shall be by the Health Officer. The Health Officer shall not issue or renew a **license** until he/she has confirmed **that** the establishment is in compliance with all provisions set forth within this article.
- B. The **license** shall state:
- (1) Date of issuance.
 - (2) Name of establishment
 - (3) Name of owner
 - (4) Purpose for which issued.
 - (5) Location of licensed premises.

C. The term of the **license** shall be for one year, commencing January 1st and expiring December 31st of each year.

(New)

§ 90-26. License not transferable; display of license.

- A. A **license** issued under this article shall not be transferable to any other person or to any other location.
- B. The issued **license** shall be conspicuously displayed at all times on the licensed premises.

§ 90-27. Age Restrictions; proof of age; signage.

- A. No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, shall **sell**, offer for sale, distribute for commercial purposes at no cost or minimal cost or with coupons or rebate offers, give or furnish, to a person under 19 years of age, any **electronic** smoking or vapor device **that** can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an **electronic** cigarette, cigar, cigarillo, hookah, pipe or device of another form, or any cartridge or other component of the **electronic** smoking or vapor device or related products.
- B. An **electronic** smoking or vapor device operation must require proof of age from any customer who is of the appearance of 26 years of age or younger. Proof must come in the form of a valid government issued photo ID.
- C. Signage must be conspicuously posted at the point of display and at the point of sale. The sign must state the following in English with letters no less than 1 inch in size as follows:
- (1) "A person who sells or offers to **sell** an **electronic** smoking or vapor device, components, cartridges or related products to a person under 19 years of age shall pay a penalty of up to \$1,000 and may be subject to a **license** suspension or revocation. Proof of age may be required for purchase. Those persons or **establishments** in violation shall be prosecuted."
 - (2) "Smoking, sampling or using an **electronic** smoking or vapor device inside this place of business is prohibited by NJ State law. Those **establishments** or individuals in violation shall be prosecuted."
- D. No **electronic** smoking or vapor device operation shall offer or allow the smoking or sampling of an **electronic** smoking or vapor device to anyone who is under 19 years of age.

(New)

§ 90-28. Suspension or revocation of license.

- A. Licenses issued under this chapter may be revoked or suspended by the Township Council, after a public hearing. Reasons for automatic suspension or revocation of an establishment **license** include but are not limited to the following:

- (1) Fraud, misrepresentation or false statement in the application for the establishment **license**.
 - (2) Fraud, misrepresentation or false statement made while operating the licensed business in the Township.
 - (3) Conducting the licensed business within the Township in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
 - (4) The owner and/or operator or any employee refuses to permit any duly authorized Township Police Officer or health official to inspect the premises or the operations therein.
 - (5) Any violation of this chapter.
- B. In addition to any penalty prescribed, any **license** under this Chapter is subject to revocation for violating any provision of this Chapter or where the operation of the licensed premises is otherwise detrimental to the preservation of the health, safety and welfare of the public. The Township Clerk shall serve the licensee with a written complaint setting forth specifically the grounds of the complaint along with a notice indicating the time and place to appear before the Township Council for a hearing. Such service shall be made by personal service or certified and regular mail at least 10 days before the hearing date. The Township Council after such hearing may revoke the **license**.
- C. Should it be determined **that** the conduct of the licensee is detrimental to the health, safety and general welfare of the public, such establishment's **license** may be suspended by the Health Officer or designee and the establishment shall close until all violations are corrected. The Health Officer may also recommend revocation of the **license** and suspend the **license** pending the revocation hearing referred to in section B. above. This hearing must be concluded within forty-five (45) days of the date of the suspension and closure of the establishment.

(New)

§ 90-29. Violations and penalties.

A person who violates the provisions of this Article including the owner of the operation or the employee of the operation who actually sells or otherwise provides an **electronic** smoking or vapor device or related product to a person under 19 years of age, shall be liable to a civil penalty of not less than \$250 for the first violation, not less than \$500 for the second violation, and \$1,000 for the third and each subsequent violation. (New)