

STATE OF ILLINOIS)
)
COUNTY OF WINNEBAGO)

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CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, the undersigned, do hereby certify that I am the duly qualified and acting Legal Director and ex officio Keeper of the Records and Seal of the City of Rockford, Winnebago and Ogle Counties, Illinois (the "City"), and as such official I am the keeper of the official journal of proceedings, books, records, minutes and files of the City and of the City Council (the "City Council") thereof.

I do further certify that on the 18th day of April 2023 there was published in pamphlet form, by authority of the City Council, a true, correct and complete copy of Ordinance No. **2023-66-O** and said resolution was so published on said date readily available for public inspection and distribution, in sufficient number, at my office as Legal Director and ex officio Keeper of the Records and Seal located in the City.

IN WITNESS WHEREOF I have affixed hereto my official signature and the seal of the City, this 18th day of April 2023.



LEGAL DIRECTOR AND *EX OFFICIO*
KEEPER OF THE RECORDS AND SEAL

NMsa

Committee report passed: 4/17/23

ORDINANCE NO. 2023 - 66 - 0

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKFORD,
WINNEBAGO AND OGLE COUNTIES, ILLINOIS, THAT:

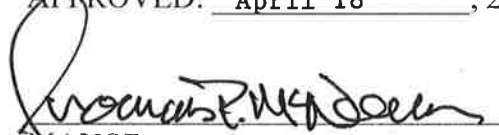
By passage and approval of this Ordinance, the Mayor and Legal Director
are hereby authorized to approve the attached amendments to the Hookah
Ordinance to Section 3-119 of the City of Rockford Code of Ordinances.

The provisions and sections of this Ordinance shall be deemed severable,
and the invalidity of any portion of this Ordinance shall not affect the validity of
the remainder.

All orders, resolutions, or ordinances in conflict herewith are hereby repealed
insofar as such conflict exists, and this Ordinance shall take effect immediately upon its
passage, approval, and publication, as required by law.

A full, true and complete copy of this Ordinance shall be published within ten
(10) days after passage in pamphlet form by and under authority of the Corporate
Authorities.

APPROVED: April 18, 2023.


MAYOR

AYES: DURKEE, LOGEMANN, TUNEBERG, FROST, TORINA, PRUNTY, WILKINS,
ROSE, BEACH, BARRIOS, MEEKS, BONNE

NAYS: _____

ABSENT: MCNEELY, (HOFFMAN - Away)

ABSTAIN: _____

ATTESTED:



LEGAL DIRECTOR

PASSED: 4/17/23

APPROVED: 4/18/23

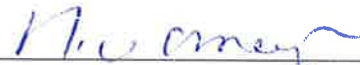
PUBLISHED: 4/18/23

FILED in my office this 18th day of April, 2023, and published in pamphlet form this 18th day of April, 2023 by order of the City Council of the City of Rockford, Illinois.


Legal Director and ex officio
Keeper of the Records and Seal



APPROVED BY:


Nicholas O. Meyer, Legal Director

RECOMMENDED BY:


Jacob Rubin, Assistant City Attorney

Chapter 3 - ALCOHOLIC LIQUOR AND TOBACCO

Sec. 3-119.— HOOKAH LOUNGES

(a) Definitions:

Hookah is a single- or multi-stemmed instrument for heating or vaporizing and then smoking either tobacco or flavored tobacco. The smoke is passed through a water basin—often glass-based—before inhalation.

Hookah inhaled products means a tobacco-based substance known by, but not limited to the following: narghile, argileh, shisha, hubble-bubble, maasel and goza. Shisha, narghile, argileh, hubble-bubble, goza, or maassel is a syrupy, combustible tobacco mix containing molasses, vegetable glycerol and various flavorings which is smoked in a hookah.

Hookah lounge is a retail tobacco store that occupies exclusively an enclosed indoor space in a freestanding structure and that primarily is engaged in the retail sale of hookah inhaled products, including water pipes for consumption by patrons on the premises.

Retail Tobacco Store includes a hookah lounge that derives more than 80% of its gross revenue from the sale of hookah products and in which the sale of other products is merely incidental.

(b) License required; expiration, renewal.

- (1) No person shall sell or offer to sell any hookah products in the city without first procuring a hookah lounge license.
- (2) It shall be a prerequisite to any hookah license being issued by the city that the person, partnership, company, corporation, limited liability company or business applying for such city permit or sticker, meet all the following conditions and standards:
 - (a) Possess a valid City of Rockford tobacco license.
- (b) Hold the necessary and valid licenses and/or permits from the State of Illinois. The revocation, loss or suspension of any such permit by the State of Illinois shall automatically result in the revocation, loss or suspension of any city permit issued hereunder, without refund of any permit fee paid to the city.
- (3) A license issued under this chapter shall be a privilege good for a period not to exceed one year after issuance, unless revoked, and shall not constitute property. All hookah lounge licenses shall expire on April 30 the next year after their issuance. In the event that any person shall make application for a license after the first day of any month, the applicant is entitled to receive a license for the number of months intervening between the date of his application and April 30, providing the applicant shall pay the prorated fee covering the intervening period, but fractions of a month shall be counted as a whole month, all licenses to be dated and payable from the first of the month. The fee for a hookah license shall be established in the annual fee schedule.
- (4) It shall be unlawful for any person or establishment licensed under this section or unlicensed to possess, sell, offer for sale, give away, or otherwise furnish any product for inhalation which is not shisha, narghile, argileh, hubble-bubble, goza, or maassel and is not sold by the establishment.

- (a) Evidence that the product in question is labeled or branded with any of the names listed in Sec. 3-102(c)(i), which is not an exhaustive list, shall create prima facie evidence that the product does not contain shisha, narghile, argheleh, hubble-bubble, goza, or maassel. The burden shall shift to the respondent or defendant to overcome the presumption if the product in question is listed in Sec. 3-102(c)(i).
- (b) Evidence that the product in question contains any of the synthetic cannabinoids, stimulants or psychedelic/hallucinogens, including but not limited to the items listed in Sec. 3-102(c)(ii), which is not an exhaustive list, shall create prima facie evidence that the product does not contain shisha, narghile, argheleh, hubble-bubble, goza, or maassel. The burden shall shift to the respondent or defendant to overcome the presumption if the product in question contains any of the synthetic cannabinoids, stimulants, or psychedelic/hallucinogens listed in Sec. 3-102(c)(ii).
 - Synthetic cannabinoids: Any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, including, but not limited to the items listed in Sec. 3-102(c)(ii).

(c) License application; issuance.

- (1) Any person or hookah lounge operator desiring to sell, have for sale or offer for sale any shisha, narghile, argheleh, hubble-bubble, goza, or maassel in any of its forms or hookah inhaled products shall make application for a license for that purpose to the Department of Law, in writing, on the official city application for the sale of hookah inhaled products, signed by the applicant, if an individual, or in the case of a partnership, by at least two members thereof, or by a duly authorized agent thereof if a club or corporation, verified by oath or affidavit, and shall further contain the information and statements required under Sec. 3-103(a)(1-16). The application shall also include a detailed security plan.
- (2) Once an application for a hookah lounge license has been denied, the application shall no longer be considered to be on file after the applicant has received notice of the denial of the issuance of a license.
- (3) A hookah lounge license application as outlined by the requirements of this Section must be completed within 90 days of first receipt by the Department of Law. Failure to complete said application within 90 days of first receipt by the Department of Law shall result in the summary denial of said application.

(d) Hookah lounge requirements

- (1) Hookah lounges shall derive more than 80% of their gross revenue from the sale of hookah products. The sale of other products is merely incidental.

- (2) A hookah lounge must maintain a specially designated area or areas within the building for the purpose of the heating, burning, smoking, or lighting activities. Smoking is prohibited in all other areas of the facility.
- (3) A hookah lounge shall not be a section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.
- (4) A hookah lounge shall be located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
- (5) A hookah lounge must have one carbon monoxide detector installed for every 100 square feet in the occupancy or structure which utilizes the burning of fossil fuel for heat, cooking, ventilation, production of hot water, etc.
- (6) A hookah lounge must abide by the following air ventilation requirements:
 - (a) A hookah lounge must have and maintain a ventilation system that exhausts smoke from the business and is designed in accordance with the state building code standards for the occupancy classification in use. The air handling systems from the smoking area shall be independent from the main air handling system that serves all other areas of the building and all air within the smoking area shall be exhausted directly to the outside by an exhaust fan. No air from the smoking area shall be recirculated to other parts of the building.
 - (b) During the hours of operation, the interior of the premises of a hookah lounge shall be maintained with adequate illumination to make the conduct of patrons within the premises readily discernible to a person with normal vision.
 - (c) The average carbon monoxide level of hookah lounges shall be no greater than 10 parts per million in any area of the facility.
 - (d) If any hookah lounge patron exhibits the common signs of carbon monoxide poisoning, which include headache, fatigue, nausea, dizziness, irregular heartbeat, pale skin with cherry red lips and ear tips shall the premises shall be immediately evacuated. The premises shall remain closed until further inspection by City or County authorities.

(e) Inspection of product & premises.

It shall be the duty of the tobacco commissioner, or anyone whom the commissioner may designate (and all of them are hereby authorized and empowered) to inspect and examine all premises wherein a business licensed under this Section 3-119 is conducted to ascertain whether the provisions of all the ordinances of the city and county and state statutes relating to the operation of such business are being complied with and observed. It shall be the duty of every licensee under this Section 3-119 to permit such inspections to be made and, when required, to furnish samples of any hookah inhaled product, which samples shall be examined by said commissioner or his delegate, and a record of such examination or analysis shall be made and kept on file. It shall be the duty of all persons selling or offering for sale any hookah inhaled product in any of its forms to permit inspection of the product and premises by the Winnebago County Health Department ,City of Rockford Community and Economic Development

Department and the Rockford Police Department. Inspection of the premises includes allowing authorized designees to view and copy surveillance system footage on the premises.

(f) Hookah inhaled product containing drugs.

No person shall sell, offer to sell or display for sale to any person or permit the use of directly or indirectly, or possess, any hookah inhaled product in any of its forms containing cannabis, opium, morphine, jimson weed, belladonna, strychnia, cocaine or any other deleterious or poisonous drug or drugs.

(g) Prohibited sale or consumption of alcoholic liquor and cannabis on premises.

No person or entity issued a retail hookah lounge license pursuant to this Section 3-119 shall:

- (1) Sell, offer to sell or permit to be consumed or possessed any alcoholic liquor upon the licensed premises. No city liquor license shall be issued to a hookah lounge; and
- (2) Sell, offer to sell or permit to be consumed or possessed any cannabis on the licensed premises.
- (3) Sell, offer to sell or permit to be consumed any hookah product to any individual or customer under the influence of drugs or alcohol.

(h) Persons under the age of 21 years prohibited on premises.

- (1) It shall be unlawful for any person under the age of 21 years to enter upon or to attempt to enter upon any premises licensed under this Section.
- (2) It shall be unlawful for any licensee under this chapter or his officer, partner, associate, representative, agent or employee to suffer or permit any person to be or remain in any licensed premises in violation of subsection (1) of this section.

(i) Compliance with health and food laws, ordinances; revocation of license.

- (1) Any person engaged in the business of selling hookah and or sales/rental of hookah inhaled products shall be required to generate 80 percent or more of its total annual gross income from the on-site sale of such hookah inhaled products in a calendar year;
- (2) Food or beverage consumption on the premises is prohibited.
- (3) All premises used for the retail sale of hookah inhaled products, limited to hookah products, or for the storage of such products for such sale, shall be kept in full compliance with the provisions of this Code regulating the conditions of premises used for the storage or sale of food for human consumption.
- (4) The health department may at any time recommend a revocation of any license issued under this Section for the retail sale of hookah inhaled products, for noncompliance with any health ordinance, and the tobacco commissioner may revoke such license by notice in

writing whenever it shall appear to the commissioner's satisfaction from the recommendation of the commissioner of health or otherwise that the licensee has violated any provisions of any health law of the state or the city. Said revocation shall be subject to the hearing requirements of subsection (m) below.

- (5) Hookah lounges shall only permit the smoking of hookah inhaled products sold by the licensed premises on the day in which the products are sold.

(j) Compliance enforcement.

- (1) Compliance with this Section shall be monitored by the Rockford Police Department and/or the Community and Economic Development Department and/or any other designee of the tobacco commissioner. Any city designee may enforce the penal provisions of this Section. It shall be unlawful for any licensee to hinder a compliance inspection in any manner.
- (2) Compliance checks shall determine, at a minimum, if the licensee is conducting business in a manner that complies with state, city and county laws regulating minors, and persons under 21 years of age, access to tobacco. When appropriate, the compliance check shall determine compliance with other laws applicable to tobacco retailing.
- (3) It shall not be a violation of this Section for the Rockford Police Department to use persons under 21 years of age to purchase or attempt to purchase tobacco products, or alternative nicotine products for the purpose of monitoring compliance with this section, if those underage persons are supervised by personnel of the Rockford Police Department and the consent of a parent or guardian has been obtained.

State Law reference— Similar provisions, 720 ILCS 675/1(e).

(k) Licenses nontransferable.

A retail hookah lounge license issued pursuant to this Section shall permit the sale of hookah inhaled products only in the premises described in the application and license. No license issued under this Section shall be transferred, sold or assigned from one person or entity to another or from one location to another. In the event of a change in owner(s), or location of the premises, a new hookah lounge license is required in accordance with the terms and provisions of this Section.

(l) Hookah tobacco retailing without a license or with a suspended license.

In addition to any other penalty, if the Rockford Police Department, Department of Law, Community Development Department, hearing officer, or any court of competent jurisdiction determines that a person or entity has engaged in the sale of hookah inhaled products at any location without a valid hookah lounge license, either directly or through their agents or employees, the person or entity shall cease the sale of all hookah inhaled products until a hookah lounge license is issued in accordance with the terms and provisions of this Section.

(m) Revocation or suspension; penalties.

- (1) Any license granted pursuant to this Section may be revoked or suspended by the tobacco commissioner for any violation of this Sec. 3-119 by notice in writing served either by registered mail, personal service, or posting notice on the premises. A third or subsequent offense for violation of this Section by the licensee shall be automatically referred to the tobacco commissioner for appropriate action.
- (2) Violation of any provision of this Section, indebtedness to the city for other license or service fees, taxes, or fines required by any ordinance, violation of criminal laws of the state, violation of any county ordinance or misstatement or withholding of material information in an application for a license shall be adequate grounds for suspension or revocation of the license. For the purposes of this section, every licensee shall be deemed responsible for the unlawful acts of his agents or employees whether or not such licensee knowingly permits or has actual knowledge of such unlawful acts.
- (3) A hearing regarding allegations of any of the violations by any hookah lounge licensee shall be convened within a reasonable time upon a written request of the licensee. Written notice of a hearing on suspension or revocation of a license shall be personally served on the licensee or sent by certified mail, postage prepaid, to the licensee at least three days before the date of hearing specifying the time and place of the hearing on the suspension or revocation of the license, and each licensee shall have the opportunity to appear and defend himself before his license is suspended or revoked. The tobacco commissioner or anyone whom the commissioner may designate (and all of them are hereby authorized and empowered) shall have the power to make all necessary rules and regulations governing hearings and shall cause to be provided forms for applications, bonds, complaints and such other proceedings as may properly come before the local commission.
- (4) Any order or action of the tobacco commissioner may be appealed to the circuit court of Winnebago County as provided by the Illinois Administrative Review Law.
- (5) Any person or entity found guilty of violating any provision of this Sec. 3-119 is guilty of an offense, subject to penalty pursuant to Sec. 1-9. The licensee and his agent or employee shall be fined separately and individually. The fines need not be equal in amount. Each day on which a violation continues or each sale of hookah inhaled products that is in violation of this Sec. 3-119 shall constitute a separate violation.
- (6) The costs of any proceeding before the tobacco commissioner shall be paid by the licensee upon a finding by the commissioner of a violation of any provisions of this Section, and the costs shall include any clerical or stenographic costs which the city must pay as well as the costs of any subpoenas and wage, salary and commission expenses directly related to the hearing. The levy and/or payment of any penalty herein provided shall not be deemed a waiver of the power of the commissioner to revoke any license.

(n) Display of license.

Every licensee under this Section shall cause his or her current license or licenses to be framed and hung in plain view of the public in a conspicuous place on the licensed premises.

(o) Hookah tobacco license application procedure.

- (1) An application for a hookah lounge license shall be filed on the prescribed form with the city department of law. The applicant shall comply with all requirements of Sec. 3-151 (with the exception of the completed background check) and this Section before said application shall be deemed completed.
- (2) The application procedure shall be as set forth in Sec. 3--151.