

**CITY OF MORRIS
GRUNDY COUNTY, ILLINOIS**

ORDINANCE NO. 4292

**AN ORDINANCE AMENDING TITLE 5.88 OF THE MORRIS MUNICIPAL CODE
RELATED TO THE PURCHASE AND SALE OF TOBACCO PRODUCTS, ELECTRONIC
CIGARETTES OR ALTERNATIVE NICOTINE PRODUCTS IN THE CITY OF MORRIS,
GRUNDY COUNTY, ILLINOIS**

**PASSED AND APPROVED BY THE
MAYOR AND CITY COUNCIL OF THE CITY OF MORRIS
THIS 1ST DAY OF JULY, 2019.**

**Published in Pamphlet Form
by the authority of the Mayor
& City Council of the City of Morris,
Grundy County, Illinois
this 1st day of July, 2019.**

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WHEREAS, Public Act 101-0002 has been enacted by the Illinois General Assembly establishing minimum ages for the purchase and sale of tobacco products, electronic cigarettes or alternative nicotine products; and

WHEREAS, the Morris Judiciary and License Committee has made a recommendation to the Morris City Council to amend Section 5.88 of the Morris Municipal Code as set forth herein; and

WHEREAS, the Morris City Council has deemed it reasonable, necessary and in the best interest of the health, safety and welfare of the residents of the City of Morris to amend Section 5.88 and to enforce the same pursuant to the police powers granted the City of Morris by the Illinois Municipal Code (65 ILCS 5/11-1-1);

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE ALDERMEN OF THE MORRIS CITY COUNCIL, GRUNDY COUNTY, ILLINOIS, AS FOLLOWS:

Section 1: That the above recitals constitute the findings of the Morris City Council and are hereby restated and incorporated into the body of this Ordinance as though fully set forth herein.

Section 2: That Chapter 5.88 of the Morris Municipal Code entitled "TOBACCO DEALERS" is hereby amended as set forth herein.

Section 3: Section 5.88.035 of the Morris Municipal Code is hereby created, and shall hereafter read in its entirety as follows:

5.88.035. - Definitions.

A. The following words and phrases shall be defined as set forth below:

"Alternative nicotine product" means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine,

whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means.

"Alternative nicotine product" does not include: cigarettes as defined in Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; tobacco product and electronic cigarette as defined in this Section; or any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

"Electronic cigarette" means:

(1) any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(2) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or

(3) any solution or substance, whether or not it contains nicotine intended for use in the device. "Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. "Electronic cigarette" does not include: cigarettes as defined in Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; tobacco product and alternative nicotine product as defined in this Section; any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose; or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

"Lunch wagon" means a mobile vehicle designed and constructed to transport food and from which food is sold to the general public.

"Nicotine" means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

"Tobacco product" means any product containing or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus, and any other smokeless tobacco product which contains tobacco that is finely cut, ground, powdered, or leaf and

intended to be placed in the oral cavity. "Tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include: an electronic cigarette and alternative nicotine product as defined in this Section; or any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Section 4: Section 5.88.040 of the Morris Municipal Code is hereby amended, and shall hereafter read in its entirety as follows:

5.88.040 Sale, Purchase and Possession Regulated.

- A. It is unlawful for any person including any licensee to sell, offer for sale, give away or deliver tobacco products, electronic cigarette or alternative nicotine product to any person under the age of twenty-one (21) years.
- B. Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco products and on or upon every vending machine which offers tobacco products for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTES OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW.

The text of such signs shall be in red letters on a white background, said letters to be at least one inch high.

- C. No person under 16 years of age may sell any tobacco product, electronic cigarette, or alternative nicotine product at a retail establishment selling tobacco products, electronic cigarettes, or alternative nicotine products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.
- D. Before selling, offering for sale, giving, or furnishing a tobacco product, electronic cigarette, or alternative nicotine product to another person, the person selling, offering for sale, giving, or furnishing the tobacco product, electronic cigarette, or alternative nicotine product shall verify that the person is at least twenty-one (21) years of age by:

(1) examining from any person that appears to be under 30 years of age a government-issued photographic identification that establishes the person to be twenty-one (21) years of age or older; or

(2) for sales of tobacco products, electronic cigarettes, or alternative nicotine products made through the Internet or other remote sales methods, performing an age verification through an independent, third party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes the person is twenty-one (21) years of age or older.

- E. It is unlawful for any person under the age of twenty-one (21) years to purchase tobacco products, electronic cigarettes or alternative nicotine products as a result of misrepresenting their identity or age, or using any false or altered identification for the purpose of purchasing tobacco products, electronic cigarettes or alternative nicotine products.
- F. Hereby reserved.
- G. It is unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, electronic cigarettes or alternative nicotine products or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products, electronic cigarettes or alternative nicotine products, free of charge to any person on any right-of-way, park, playground or other property owned by the city, any school district, any park district or any public library.
- H. Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this section 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; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.
- I. No person shall violate the provisions of this Chapter, or the "Prevention of Tobacco Use by Persons Under 21 Years of Age and Sale and Distribution of Tobacco Products Act" as may be amended (720 ILCS 675/0.01 *et seq.*), and the same is hereby restated and incorporated herein.

Section 5: Section 5.88.045 of the Morris Municipal Code is hereby created, and shall

hereafter read in its entirety as follows:

Section 5.88.045 – Exemptions; Sincerely Held Religious Activity

The provisions of Chapter 5.88 shall not apply to persons engaged in the practice or performance of sincerely held religious beliefs, rites or ceremonies occurring during public or private worship activity in which the sacramental use of tobacco products,

electronic cigarettes or alternative nicotine products are used as a generally recognized, central tenet or a key principal of the religion.

Section 6: Section 5.88.010 of the Morris Municipal Code is hereby amended and shall hereafter read in its entirety as follows:

5.88.010. - License-Required.

No person, firm or corporation shall engage in the sale at retail of tobacco products, electronic cigarettes or alternative nicotine products in any form or maintain a vending device for the sale or distribution of the same without obtaining a license as provided in this section. Applications for such licenses shall be made in writing to the clerk, and he shall cause an inspection to be made of the character of the applicant. No such license shall be issued to any person who is not a person of good character.

Section 7: Section 5.88.030 of the Morris Municipal Code is hereby amended and shall hereafter read in its entirety as follows:

5.88.030. - Sanitation regulations.

Premises and buildings used for the sale of tobacco, electronic cigarettes or alternative nicotine products in any form must be kept in a clean and sanitary condition. The chief of police or the health inspector shall inspect such premises frequently enough to insure compliance with this section.

Section 8: The provisions of this ordinance shall be enforced pursuant to and in accordance with Title 11 of the Morris Municipal Code, Alternative Compliance Citation Program, or as otherwise may be determined by the arresting officer.

Section 9: The Morris City Clerk is hereby authorized and directed publish a true and correct copy of this Ordinance in pamphlet form for a period of not less than ten (10) days, and shall complete a Certificate of Posting consistent therewith.

Section 10: This Ordinance shall be immediately effective from and following its passage, approval and publication as required by law.

Section 11: Any Ordinances or Resolutions inconsistent with the terms and the provisions hereof are hereby repealed and revoked to the extent of any such inconsistency.

PASSED AND APPROVED THIS 1ST DAY OF JULY, 2019.

Ayes 7
Nays 0
Pass 0
Absent 0


RICHARD P. KOPCZICK, Mayor

ATTEST:

(SEAL)


CAROL ADAIR, City Clerk