

OPTION A:

**AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE
OF THE CITY OF PEORIA PERTAINING TO DISTANCE OF SALE OF TOBACCO NEAR
SCHOOLS, PROHIBITION OF SALE OF E-CIGARETTES TO MINORS, AND PROHIBITION
OF POSSESSION OR SALE OF DRUG PARAPHERNALIA**

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, the City of Peoria has home-rule authority to license and regulate the businesses that sell cigarettes, tobacco, and electronic cigarettes commonly known as e-cigarettes; and

WHEREAS, the City Council finds that e-cigarettes with their flavored sweet cartridges including flavors like bubble-gum, gummy bear, and various berries entice children and young adults to purchase and use such items;

WHEREAS, the United State Centers for Disease Control released data in September 2013 indicating the use of e-cigarettes by middle and high school students doubled from 2011 to 2012 and in 2012, more than 1.78 million middle and high school students nationwide had tried e-cigarettes;

WHEREAS, the City Council finds the increase use of e-cigarettes by children and teens to be alarming and that there is a need to protect the public health and safety of citizens, particularly its children, from a life-long addiction to nicotine;

WHEREAS, the City Council finds the regulations including the distance of sale of e-cigarettes and sale of traditional cigarettes and tobacco products to be reasonably related to its government interest relating to the welfare of its citizens; and

WHEREAS, the City Council finds that drug paraphernalia merely labeled as "For Tobacco Use" being sold and openly displayed at licensed cigarette establishments as an endangerment ; and

WHEREAS, the City Council finds that it is necessary to prohibit the sales of equipment used or designed to be used as drug paraphernalia as endangerment to the public health and safety of citizens, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

SECTION 1. Chapter 18 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words:

Sec. 18-592. Selling to minors.

No person, with or without a license, shall sell or offer to sell, buy for, distribute samples of or furnish any cigar, cigarette, electronic cigarette or electronic cigarette

liquids, smokeless tobacco or tobacco in any of its forms to any minor under 18 years of age.

For the purpose of this article, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing.

For the purpose of this article, "electronic cigarette" or "e-cigarette" means a battery or other power operated device that contains a combination of nicotine, flavor, and chemicals that are turned into vapor which is inhaled by the user.

For the purpose of this article, "electronic cigarette liquid" means a liquid whether packaged in a cartridge containing nicotine in combination with flavor and chemicals sold and marketed for the refilling of e-cigarettes.

Sec. 18-593. Selling, etc., near schools.

(a) No person shall sell, give away, barter, exchange or otherwise deal in, at any place located within ~~400~~ 350 feet of the property line of any schoolhouse or building used for school purposes ~~public, private or parochial elementary, middle or secondary schools~~, any cigarettes or electronic cigarettes or electronic cigarette liquids, tobacco or tobacco products of any form whatsoever, used in the making of cigarettes, or with which cigarette papers or wrappers are sold or given away.

(b) For any businesses that sells or offers for sale any cigarettes, electronic cigarettes, electronic cigarette liquids, tobaccos, tobacco products of any form, the distance shall be measured by uninterrupted distance from property line of the school to the property line of the business.

(c) The 350 feet restriction shall not apply to the location of any business that has been issued a cigarette license pursuant to this division for the 2014 license year as long as no cigarette license for that location has been revoked.

Sec. 18-611. Required.

No person shall keep for sale or to give away, or shall sell or give away, or offer to sell or give away, any cigar, cigarette or any cigarette papers or cigarette wrappers of any kind, electronic cigarette or electronic cigarette liquids, smokeless tobacco or tobacco in any of its forms, at any place within the city, without having first procured a license therefore.

Sec. 18-617. Revocation, suspension, and fines.

(a) Any license issued pursuant to this division may be revoked, suspended for a period not to exceed 30 days and/or imposed a fine not more than \$1,000.00 by the city manager if the city manager shall find after a hearing:

- (1) That the licensee has violated any of the provisions of this article, the laws of the state, or ordinances of the city at the licensed location.
- (2) That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for a license required by this division or any investigation into any such application.

(b) The licensee shall be responsible for the acts of his agents, servants and employees in the operation of any licensed establishment. Prior to holding a hearing concerning the question of whether a license issued pursuant to this division shall be revoked or suspended, the city manager shall give at least ten days' written notice to the licensee setting forth the alleged violations specifically. The licensee may present evidence at such hearing and cross-examine witnesses.

(d) Upon the revocation of a cigarette license issued pursuant this division, no cigarette license shall be issued for that location within 12 months of the revocation of the cigarette license and the location must comply with the current distance restriction from a property of a school as prescribed in Section 18-593 of the City Code.

Sec. 18-620. Drug Paraphernalia.

(a) No person shall deliver, furnish, transfer, or possess with intent to deliver, furnish or transfer, drug paraphernalia, as defined in Section 720 ILCS 600/2, subparagraph (d)(5) of the Drug Paraphernalia Control Act, and including glass tubing designed and utilized for the ingestion of crack or cocaine, knowing, or under circumstances where one reasonably should know, that such drug paraphernalia or glass tubing will be used to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Illinois Controlled Substances Act, codified at 720 ILCS 570/100, et seq.

(b) In addition, upon the order of the chief of police with supported basis that an item or items are drug paraphernalia or used to introduce into the human body a controlled substance in violation of the Illinois Controlled Substance Act, a licensee, its agents or employees, that holds a license issued by the City must cease to expose for sale, sell or offer for sale to any person, directly or indirectly, the item or items within 14 days of issuance of such order.

(c) In addition to the penalty set for the in Section 18-617 of this Code, any violation of this section shall upon conviction be punishable with a fine not less than \$500.00.

SECTION 2. This Ordinance shall be in effect 10 (ten) days after its passage and publication in pamphlet form.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel