Chapter 148

TOBACCO, SALE OF

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[HISTORY: Adopted by the Township Council of the Township of East Hanover 12-21-1995 as Ord. No. 36-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Peace and good order — See Ch. 115.

§ 148-1. Definitions.

LICENSED PREMISES — Any place licensed by the State of New Jersey to primarily sell at retail beer, wine and/or mixed spirits for consumption on the premises.

PERSON — An individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

SELF-SERVICE RACK/DISPLAY — A rack/display containing any tobacco product that is accessible, without the aid or assistance of the owner or licensee of the premises containing the rack/display, to a person desiring to purchase the same.

TOBACCO — Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use, including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER — Any person or entity who or which operates a store, stand, booth, concession or place at which sales of tobacco are made to purchasers for consumption or use and shall mean a person or entity that owns or operates a vending machine and/or a vending machine location.

TOWNSHIP HEALTH OFFICER — The administration officer of the Township of East Hanover Department of Health and/or his or her authorized representative.

VENDING MACHINE — Any automated, self-service device which, upon insertion of money,
tokens or any other form of payments, dispenses cigarettes or other tobacco products.

VENDING MACHINE LOCATION — The room, enclosure, space or area where a tobacco vending machine is installed and operated.

§ 148-2. Prohibition of tobacco sales to minors.

It shall be unlawful for anyone, including a tobacco retailer, to sell, give or permit to be sold or given to a person under eighteen (18) years of age tobacco in any form.

§ 148-3. Identification required.

It shall be unlawful for a tobacco retailer to sell or permit tobacco products to be sold to any individual under the age of eighteen (18) years, unless the seller has a reasonable basis for determining that the buyer is of legal age [eighteen (18) or over].


It shall be unlawful for any tobacco retailer to allow, suffer or permit the sale of tobacco products on his or her premises by any person under the age of eighteen (18) years.

§ 148-5. Restriction of tobacco vending machines and sales.

A. It shall be unlawful for a tobacco retailer to offer for sale or to sell any tobacco product through a vending machine in this township, except in the following instances:

(1) In any premises or portion thereof to which access by minors is expressly prohibited by law or by the expressed policy of the owner of the premises; provided, however, that the tobacco vending machine is:

(a) Located fully within such premises or section of the premises from which minors are prohibited;

(b) Inaccessible to the public when the businesses are closed; and

(c) In compliance with all other applicable sections of this chapter.

(2) Any premises such as a factory, business, office, industrial plant or other place where the public is generally not given access and where such machines are intended for the use of employees eighteen (18) years of age or older or other adults; provided, however, that the tobacco vending machine in each premise is:

(a) Located fully within such premises and not located in a coatroom, rest room, waiting area or similar unmonitored area;

(b) Inaccessible to the public when the businesses are closed; and

(c) In compliance with all other applicable sections of this chapter.

(3) In any premises or portion thereof where the principal use therein is for the retail sale of alcoholic beverages pursuant to the New Jersey Alcoholic Beverage Control Act, N.J.S.A.
33:1-1 et seq., where access by persons under eighteen (18) years of age is prohibited by law; provided that the tobacco vending machine is:

(a) Located fully within such premises or section of premises from which minors are prohibited;

(b) Inaccessible to the public when the businesses are closed; and

(c) In compliance with other all other applicable sections of this chapter.

B. In all other instances, locations and places, a tobacco vending machine shall be permitted to operate only if:

(1) [Amended 2-15-1996 by Ord. No. 1-1996] The operation of the machine to vend tobacco products is possible only by the activation of an electronic switch or other device, which is controlled by the attendant or deputy attendant, as set forth in § 148-7 of this chapter, and only after the attendant or deputy attendant has positively established the purchaser’s age as eighteen (18) years or greater by the purchaser’s production of two (2) forms of identification setting forth the purchaser’s date of birth; and

(2) There is compliance with all other applicable sections of this chapter.

§ 148-6. Tampering with machines or devices.

It shall be unlawful for any tobacco retailer responsible for the operation of a tobacco vending machine to remove, disconnect or otherwise disable the remotely activated electronic switch or device on a tobacco vending machine where provisions of this chapter provide for a vending machine to be so equipped.

§ 148-7. Attendants required.

No cigarette vending machine shall be placed on or in any establishment permitted by this chapter unless the owner or lessee of the machine provides, in writing, to the township, for each individual cigarette vending machine, the names and business addresses of a person or persons who shall serve as attendant and deputy attendant for that machine. More than one (1) attendant and/or deputy attendant may be appointed in reference to a single cigarette vending machine, provided that the owner or lessee states the time periods when each of two (2) or more attendants and/or deputy attendants for a single cigarette vending machine shall be the attendant or deputy attendant on duty and thus responsible for compliance with this chapter.


The attendant and, in his/her stead, the deputy attendant shall be responsible for the penalties and fees which may, upon conviction, be imposed for violations of this chapter. Nothing in this chapter shall prohibit the employer of an attendant from paying penalties imposed under this chapter, but payment by the employer shall not be required.


The attendant and, in his/her stead, the deputy attendant shall:

A. Be at least eighteen (18) years of age or more, as certified by the Township Health Officer;
B. Be responsible for placing and maintaining the cigarette vending machine in accordance with the provisions of this chapter;

C. Have a clear unobstructed line of sight between his/her normal place of transacting business and the location of the cigarette vending machine;

D. Be responsible to make those cigarette vending machines for which he/she is responsible inoperable during any time when the public has access to said machines but for any reason the attendant or deputy attendants are not available to attend the machines;

E. Be an employee or agent of the firm, corporation, partnership or entity having possessory interest, including but not limited to leaseholds, in the establishment where the cigarette vending machine is located; and

F. Be deemed in violation of this chapter if he/she permits a person who is under the age of eighteen (18) years to purchase a product from a cigarette vending machine.

§ 148-10. Prohibition within certain distance from school property.

Except on premises as described in § 148-5A(2) of this chapter, it shall be unlawful for a tobacco retailer to operate a tobacco vending machine in any premises or portion thereof located within two hundred (200) feet of any public or private school or other property used primarily for school activities unless it is equipped with a locking device.


A. Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall, upon conviction, be punished by a fine of one thousand dollars ($1,000.), and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

B. The Township Health Officer or his/her designee and the East Hanover Police Department have authority to enforce this chapter.

C. The Township Health Officer or his/her designee or the Township Police Department, after giving proper identification, may inspect any matter, thing, premises or place as may be necessary for the proper enforcement hereof.

D. It shall be unlawful for any person to oppose or otherwise obstruct a Township Health Officer or his/her designee in the performance of duties hereunder, and they may request the assistance of a law enforcement agency or peace officer when necessary to execute his or her official duty in a manner prescribed by law.


A tobacco vending machine which is not permitted under this chapter may be seized, forfeited and disposed of in the same manner as other unlawful property seized under N.J.S.A. 2C:64-1 et seq. Any machine so seized shall be returned to its owner, upon payment of the reasonable costs incurred in connection with the seizure. As an alternative, or in addition to the provisions of this section, any tobacco retailer, for each unauthorized tobacco vending machine remaining at any prescribed location after the
effective date of this chapter, may be fined one thousand dollars ($1,000.) for each day placement of the vending machine is in violation of this chapter.