2020 Version 1

Clatsop County

TOBACCO RETAIL LICENSE

INFORMATION FOR RETAILERS

Clatsop County Public Health Department
820 Exchange Street, Suite 100
Astoria, OR 97103
(503)-325-9302
health@co.clatsop.or.us

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INTRODUCTION

Why do we have a Tobacco Retail License (TRL)?

The goal of the Tobacco Retail Licensing program is to increase education for Tobacco Retailers and employees and compliance with local, state and federal laws in order to reduce youth access to tobacco products across Clatsop County. Enforcement of Tobacco Retail licenses has been shown to greatly reduce youth tobacco use rates where it has been applied (Public Health Law Center, 2017).

Smoking Health Effects on Youth

According to the Center for Disease and Control and Prevention (2016), 1 out of 13 youth will ultimately die prematurely from a smoking-related illness if current smoking rates continue. Youth and young adults who smoke are in serious danger and smoking can cause deadly health issues instantly and into adulthood. They are in danger of:

- nicotine addiction (exposure to nicotine can have lasting effects on youth brain development)
- reduced lung function
- reduced lung growth; and
- early cardiovascular damage.

The recent vaping epidemic with youth indicates stronger measures are needed to protect youth from a lifetime of nicotine addiction. *(Campaign for Tobacco Free Kids)*

The Costs of Tobacco

Tobacco use is still the leading preventable cause of death in Oregon and in Clatsop County. One in five (21%) deaths are tobacco-related, and $14.6 million was spent on the medical care from tobacco use costs in Clatsop County in 2019 alone. (*Smokefree Oregon).*

In 2019, 22% of Clatsop County youth had a 30 day use of any tobacco product, 18% of those obtained from a store or gas station. (*Healthy Teens Survey 2019)*

The tobacco industry spends over $9 billion annually advertising and promoting its products. Of this amount, more than **90 percent** is spent in the **retail environment** (e.g., convenience stores, gas stations, grocery stores, and pharmacies), typically at the point of sale (POS). The point of sale refers to any location where commercial tobacco products are advertised, displayed or purchased, and includes areas at the cash register, as well as advertisements inside and outside retail establishments.

ABOUT YOUR LICENSE

YOUR TOBACCO RETAIL LICENSE

About your new Tobacco Retail License

According to Clatsop County Ordiance # 2019-03, any business that sells tobacco, nicotine and vaping products in Clatsop County is required to purchase a yearly license.

This license is called your "Tobacco Retail License".

You can apply for your Tobacco Retail License at the Clatsop County Department of Public Health here.

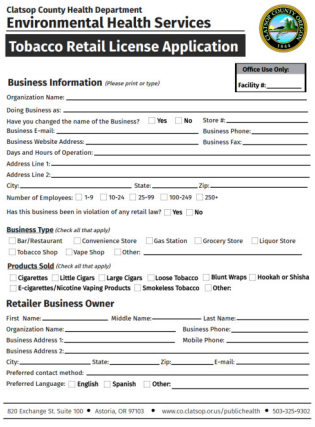
This license requirement applies to any business that sells tobacco and nicotine products, including:

- **Grocery Stores**
- **Campground stores**
- **Events**
- **Music Venues**
- **Convenience Stores**
- **Bars**
- **Hotels**
- **Restaurants**

Requirements for your Tobacco Retail License

Tobacco Products definition includes any nicotine-containing product, including smokeless and vape products, and tobacco paraphernalia that can deliver tobacco products to the person using them. It does **NOT** include FDA approved tobacco cessation products.

- **A TRL is required for each address at which any tobacco product is sold**
- **A licensee must meet all local, state, and federal laws pertaining to tobacco products;**
- **Tobacco products must be sold from a licensed, fixed location**
- **TRL application must be submitted on forms provided by Clatsop County Environmental Health**
- **A licensed tobacco retailer must inform the department, in writing, of any change in the information contained on the license application;**
- **The license fee must be submitted with the application**
- **A TRL is valid for one calendar year from the date of issuance**
- **Each license must be prominently displayed in plain view of the general public at each licensed location**
- **Clatsop County Environmental Health will endeavor to inspect each retailer at least one time per year.**
- **Clatsop County Environmental Health will provide educational resources to licensed tobacco retailers.**



Clatsop County Health Department
Environmental Health Services
Tobacco Retail License Application

Business Information (Please print or type)

Office Use Only:
Facility #:_____

Organization Name:
Doing Business as:
Have you changed the name of the Business? Yes No Store #:
Business E-mail: Business Phone:
Business Website Address: Business Fax:
Days and Hours of Operation:
Address Line 1:
Address Line 2:
City: State: Zip:
Number of Employees: 1-9 10-24 25-99 100-249 250+
Has this business been in violation of any retail law? Yes No

Business Type (Check all that apply)
Bar/Restaurant Convenience Store Gas Station Grocery Store Liquor Store
Tobacco Shop Vape Shop Other:

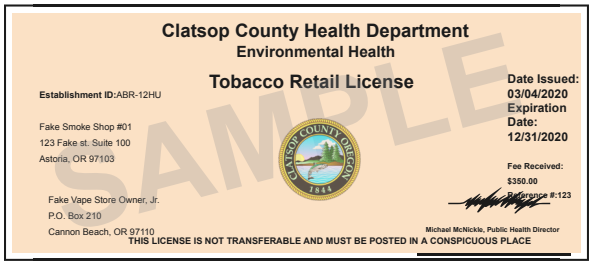
Products Sold (Check all that apply)
Cigarettes Little Cigars Large Cigars Loose Tobacco Blunt Wraps Hookah or Shisha
E-cigarettes/Nicotine Vaping Products Smokeless Tobacco Other:

Retailer Business Owner
First Name: Middle Name: Last Name:
Organization Name: Business Phone:
Business Address 1: Mobile Phone:
Business Address 2:
City: State: Zip: E-mail:
Preferred contact method:
Preferred Language: English Spanish Other:

820 Exchange St. Suite 100 • Astoria, OR 97103 • www.co.clatsop.or.us/publichealth • 503-325-9302

Download official application, fill out and return with fee payment.

Sell only from a fixed location.



Clatsop County Health Department
Environmental Health
Tobacco Retail License

Establishment ID:ABR-12HU

Fake Smoke Shop #01
123 Fake st. Suite 100
Astoria, OR 97103

Date Issued: 03/04/2020
Expiration Date: 12/31/2020

Fee Received: $350.00
Reference #:123

Fake Vape Store Owner, Jr.
P.O. Box 210
Cannon Beach, OR 97110

Michael McNickle, Public Health Director

THIS LICENSE IS NOT TRANSFERABLE AND MUST BE POSTED IN A CONSPICUOUS PLACE

SAMPLE

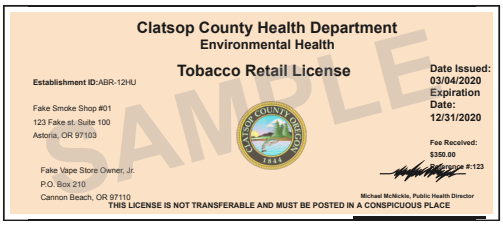
TRL License valid for one year

Required Signs

You are required to display two signs where they can easily be seen. The tobacco retail license will be sent when your application is approved. The other sign is the Oregon State Notice Posting 333-015-0205. The Oregon state posting sign can be downloaded here:

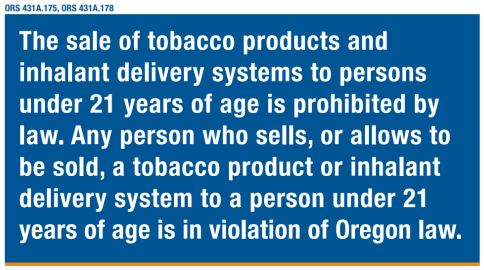
Oregon State T21 Sign SP
Oregon State T21 Sign EN

1


Clatsop County Health Department
Environmental Health
Tobacco Retail License
Establishment ID:ABR-12HU
Fake Smoke Shop #01
123 Fake st. Suite 100
Astoria, OR 97103
Fake Vape Store Owner, Jr.
P.O. Box 210
Cannon Beach, OR 97110
Date Issued: 03/04/2020
Expiration Date: 12/31/2020
Fee Received: $350.00
Reference #:123
Michael McNickle, Public Health Director
THIS LICENSE IS NOT TRANSFERABLE AND MUST BE POSTED IN A CONSPICUOUS PLACE
SAMPLE

Clatsop County's Tobacco Retail License

2


ORS 431A.175, ORS 431A.178
The sale of tobacco products and inhalant delivery systems to persons under 21 years of age is prohibited by law. Any person who sells, or allows to be sold, a tobacco product or inhalant delivery system to a person under 21 years of age is in violation of Oregon law.
Oregon Health Authority PUBLIC HEALTH DIVISION
SMOKEFREE oregon
Want to Quit Smoking?
1.800.QUIT.NOW (1.800.784.8669)
www.quitnow.net/oregon

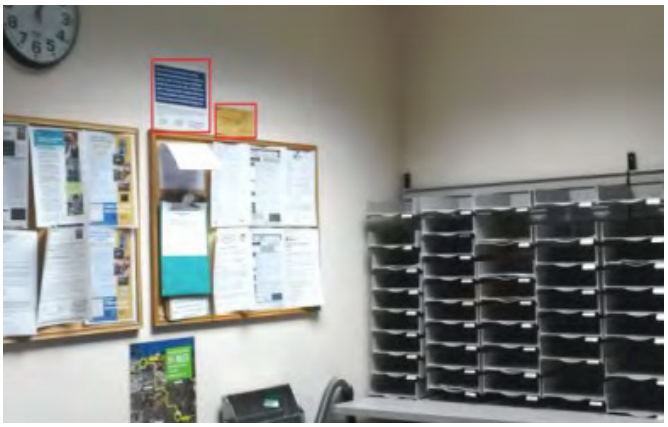
Oregon State Notice Posting 333-015-0205

Where to display required signs?

Clatsop County will provide a paper license and that must be displayed at your location in a location visible to customers.

- Customers AND employees should clearly be able to see the license and sign
- An employee break area or back office is NOT an acceptable place to display the license and sign.

NOT ALLOWED



The signs are posted in a break room where they are not seen by customers

ALLOWED

The signs are posted where both the employee and customer can see them.

Each TRL is for **one** location only.

NOT ALLOWED

Not allowed because there are 3 locations with only 1 license

ALLOWED

Allowed because each location has their own license

TOBACCO PRODUCTS

TOBACCO PRODUCTS

Tobacco Products Regulated Under Your License

You are required to have a TRL if you sell any of the following tobacco products. For the purposes of this license, "tobacco products" includes all forms of tobacco products, nicotine-containing Inhalant Delivery Systems (IDS) products, and all tobacco and IDS paraphernalia used to create or consume those products. Examples shown in this manual do not represent every type or brand or product of that category.

Cigarette products

Cigars

Cigarillos (Swisher Sweets)

Little Cigars

TOBACCO PRODUCTS

Tobacco Products Regulated Under Your License

Chewing Tobacco

Snus

Shisha (hookah) with nicotine

Pipe Tobacco

Electronic Cigarettes (nicotine-containing)

E-liquids (e-juice, vape juice) with nicotine

TOBACCO PRODUCTS

Tobacco Products Regulated Under Your License

Tobacco paraphernalia will be regulated under your TRL. Here are some examples below:

Rolling papers

Pipes

Hookah pipe

Rolling machine

OTHER PRODUCTS

Products NOT Regulated Under Your License

Nicotine containing products that are authorized by the FDA as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose.

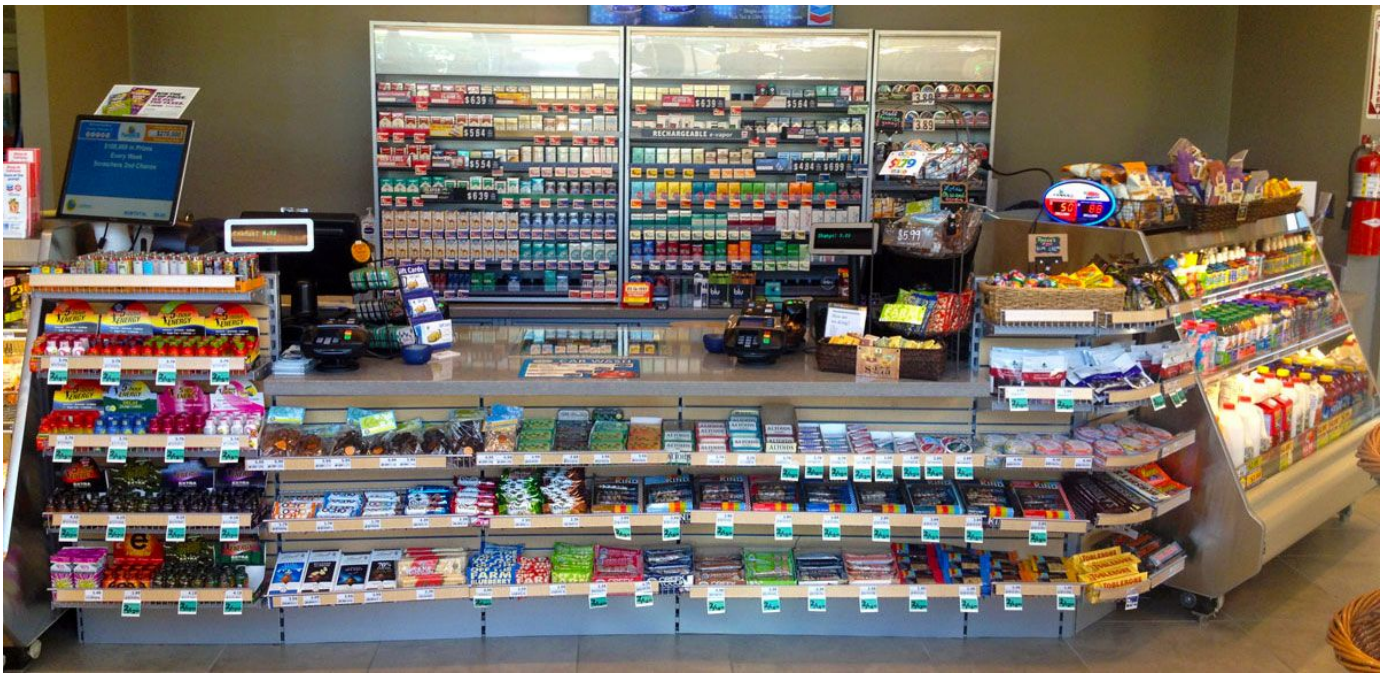
TOBACCO RETAIL LICENSE PROHIBITIONS

PROHIBITIONS

Prohibitions in Your Tobacco Retail License

(Section 8 of the Tobacco Retail License Ordinance)

- Tobacco retailers cannot sell without a tobacco retail license
- Tobacco and vape products must be sold in original packaging containing federal health warning as required by law
- Retailers must follow all federal, state, and local laws
- Retailers cannot sell to any person under age 21*
- All tobacco products must be behind the counter or in locked case. (This does not include establishments that are off limits to persons under age 21)
- Prohibitions on coupon redemption, price discounts, and free samples



*See appendix for "How to check IDs"

PROHIBITIONS

No Self-Service Tobacco Products

Keep all tobacco products behind the counter in an area only accessible to employees/owners OR in a locked case. The clerk can only sell tobacco products to the customer (who looks under the age of 30) once their ID has been checked. Do not place tobacco products where customers are able to get them without help from a clerk.

NOT ALLOWED

Tobacco products may not be in a place where customers can get them without help

ALLOWED

Tobacco products must be behind the counter or in a locked case

PROHIBITIONS

Discounts, Coupons, and other Price Lowering Strategies

The Clatsop County Tobacco Retail License Ordinance contains restrictions that prohibit retailers from:

- Redeeming any coupons for any tobacco products **including app based coupons.**
- Price discounts-including on tobacco paraphernalia or inhalant delivery systems.
- Free or nominally-priced tobacco products or samples.

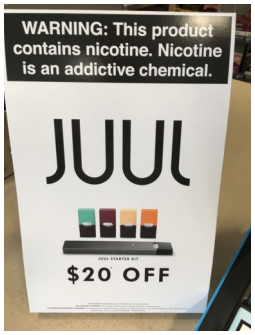
Discounts

No discounts of any kind are allowed in the TRL ordinance. This includes discounts offered in store, from the manufacturer, ect.

NOT ALLOWED

Discounts are being offered for these cigarettes; the price is lower than listed price

ALLOWED



These products are prohibited as they offer a discount off the regular price which is indicated on the package

PROHIBITIONS

Discounts

Selling discounted tobacco products, less than the listed price is prohibited under the tobacco retail license. Discounted products refer to multi-pack discounts, 2-for-1, or cents-or dollars off.

NOT ALLOWED

PROHIBITIONS

Discounts

Selling discounted tobacco products, less than the listed price.

NOT ALLOWED

Which One of These are Prohibited?

PROHIBITIONS

Discounts

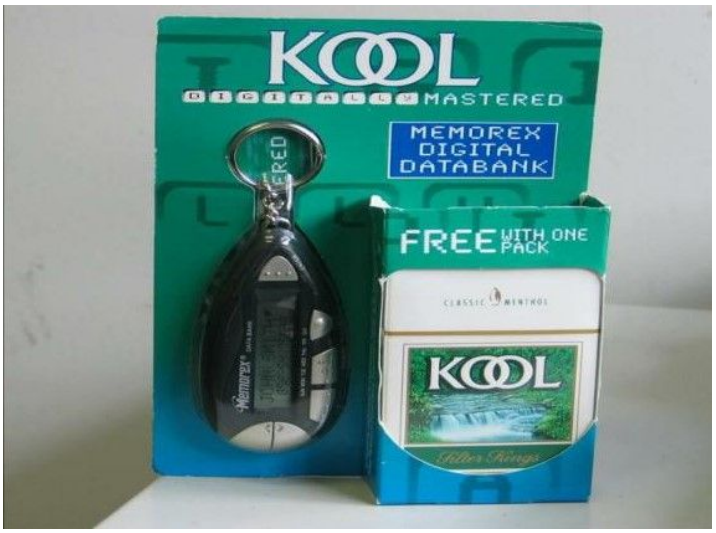
Special Offers, Special Prices, Special Deals and similar signs are red flags for inspectors looking for evidence of discounts. Retailers who display these signs should be prepared to show the list price to prove that it is NOT a discount .

PROHIBITIONS

Samples And Promotions

It is illegal to offer gifts or other items when a customer is buying a Tobacco Product.

Shirts, pens, collectible cups, etc., cannot be given to customers as a result of a tobacco product purchase.



What About Flavors?

Cigarettes and Other Tobacco Products

The legality of flavors can be confusing for IDS and tobacco products and is regulated by the FDA.
All flavored cigarettes are banned EXCEPT for **menthol.**

All other forms of flavored tobacco products are allowed i.e.., chew tobacco, cigarillos, nicotine-containing, non-tobacco products.

ALLOWED

NOT ALLOWED

What About Flavors?

Inhalant Delivery Systems Flavors

NOT ALLOWED

- Any flavored, **cartridge-based** IDS product, like JUUL, (other than tobacco- or menthol-flavor.);

ALLOWED

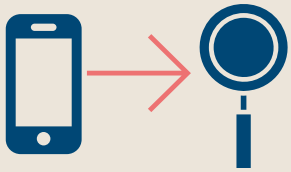
- Mods and larger refillable products
- Disposables (does not recharge)

Things To Know

Inspection Types

Routine Inspection : Each Tobacco Retailer will be inspected at least one time every year during regular business hours to make sure there are no violations of the ordinance

Complaint Inspection : There may be additional inspections in response to complaints received against Tobacco Retailers to make sure there are no violations of the ordinance.



Surveillance Inspection for Suspension: Tobacco Retailers who are under surveillance will be inspected to make sure that they do not have Tobacco Products displayed, are not selling tobacco products, and have the license suspension sign displayed after having been found out of compliance and not following the remediation plan. Retailers who are no longer selling tobacco products will also be under surveillance.

Recheck Inspections: Recheck inspections will happen if violation(s) are found during a routine or complaint inspection.

Minimum Legal Sales Age Inspection: Tobacco Retailers may be inspected each year during regular business hours to make sure there are no tobacco sales to customers under 21 years old.

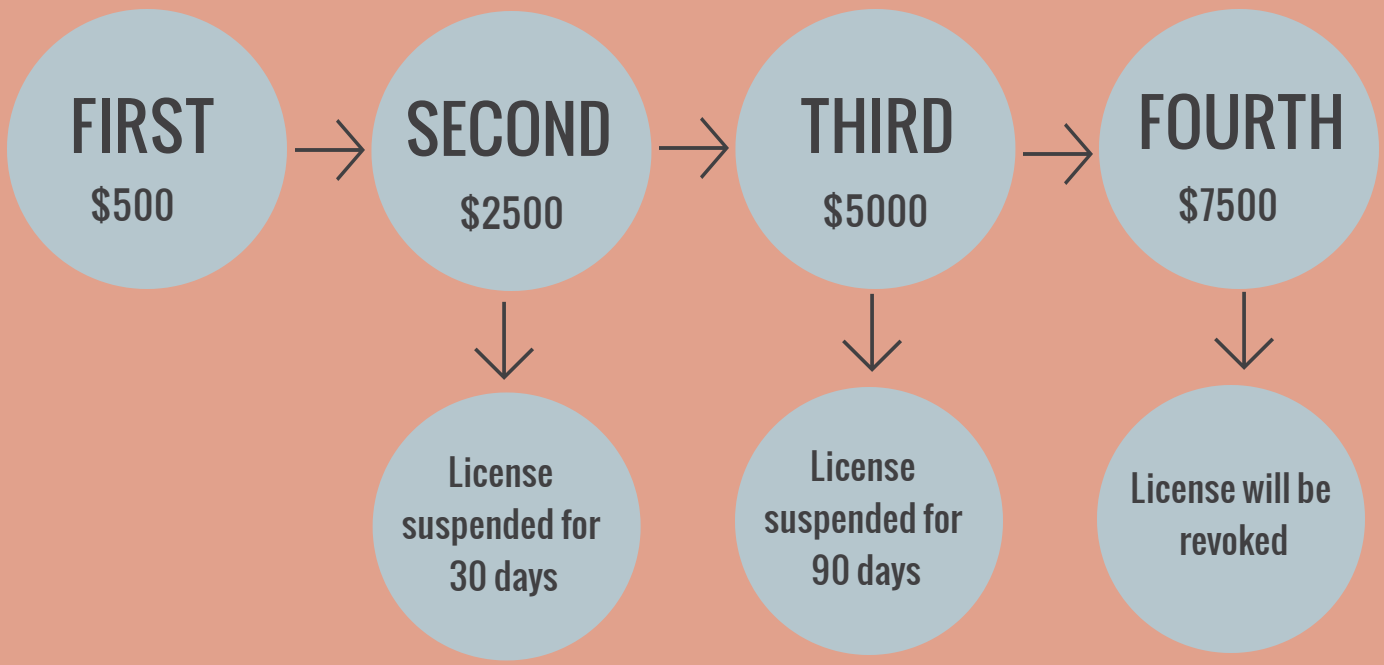
List of Violations of Tobacco Retail License

1	**Sales to minors**	It is prohibited to sell Tobacco Products to customers under the age of 21
2	**Operating without a license**	A Clatsop County Tobacco Retail License is required to sell tobacco products
3	**TRL not displayed**	It is required that the tobacco retail license is displayed in a place visible to customers and the owner
4	**Not in original packaging**	Tobacco products must be sold in original packaging including health warnings
5	**Vending machine not in 21+ only**	Vending machines are only permitted in places where customers under 21 are prohibited entry
6	**Self-service observed**	Self-service displays for tobacco products are prohibited except in facilities where only persons 21 and older can enter. For example, a cigarette vending machine is allowed if the location limits entry to persons 21 and older.
7	**Pack size less than 20**	Cigarettes must be sold in packages of 20
8	**Cigarettes singles sold**	No single cigarettes or smokeless tobacco pouches can be sold
9	**Flavored tobacco products sold**	It is prohibited to sell any flavored cigarettes except menthol. Some restrictions on flavored IDS products.

10	**Gifts offered**	No gifts or other items may be offered in exchange for purchasing a tobacco product
11	**Selling tobacco products at a discounted price**	Redeeming coupons, selling tobacco products for less than the listed price, giving away or selling products at a nomial price
12	**Light, low, or mild products sold**	It is prohibited to sell cigarettes labeled "light," "low," or "mild"
13	**No state sign**	It is required to post the State Notice sign that states that it is unlawful to sell tobacco or inhalant delivery systems to customers under 21
14	**Incorrect IDS packaging**	Inhalant delivery systems must be packaged and labeled according to the rules
15	**Tobacco products displayed**	No tobacco products may be displayed without a valid tobacco retail license
16	**No suspension sign**	During suspension, sign must be posted stating tobacco products cannot be sold
17	**Failure to permit access**	Tobacco retailers must permit access for inspection or investigation
18	**Refuse to comply**	Tobacco retailers must cooperate in remediation planning
19	**Sales of tobacco products during suspension**	Tobacco retailers are prohibited from displaying or selling tobacco products during license suspension

Penalties for not meeting requirements of Tobacco Retail License

If a violation if found within a twenty-four (24) month period , the following penalties will be applied :



An appeal can be made to Clatsop County Manager for any penalty within 10 days of mailing of the Department's decision.

If license is revoked, a tobacco retailer cannot reapply until five (5) years have passed from date of violation

Tobacco Retail License Inspections

Tobacco Retailers must allow Clatsop County inspectors into their business to do inspections.

If you do not let the inspector perform the inspection you may be in violation of your license.

The inspector will identify whether you are following the Tobacco Retail License rules.

Clatsop County Health Department inspectors are here to help your business follow the rules of the Tobacco Retail License.

We also offer consultation services where our Tobacco Retail License Specialist will go around your store with you to see if you are in compliance or not in compliance.

For more information: visit our website.
Call: (503)325-9302
Email: clatsop@co.clatsop.or.us

Thank you!

For more information or questions please contact the Clatsop County Department of Public Health Environmental Health Program at (503)325-9302 or email at health@co.clatsop.or.us

Appendix

- How To Check IDs
- Clatsop County Tobacco Retail License*
- Letter to Retailers

* Download the TRL Ordinance here.

APPENDIX A: Guide to Checking Identification

CHECKING IDS

You can only sell Tobacco Products to customers aged 21 and older

Check photo ID of everyone who looks under age 30 who tries to buy tobacco products.

Valid Forms of ID are:
- Drivers license or driving permit with picture from Oregon or another state.
- Identification Card with picture from Oregon or another state.
- Any other ID card with a birth date and picture issued by a state or federal government agency.

Valid Forms of Federal ID are:

Military ID

Passport Card

Permanent Resident Card

Checking IDs: Helpful Hints

Do not rush or allow yourself to be pressured when checking a customer's ID. You need to carefully check in order to follow the law.

1. Ask the customer for an identification card.
2. Make sure that the identification card has not expired.
3. Make sure that the person on the card looks like the customer.
4. Make sure that the person on the card is 21 or over.
5. Text should be easy to read.
6. Text should be placed properly.
7. Text should be all the same font.
8. Look for any signs of alteration or peeling lamination.

APPENDIX A: Guide to Checking Identification

You can quickly check an Oregon Driver License or Oregon ID by looking at the location of the picture and information within the red border. You can only sell to the customer if the year oft heir birthday on their ID is 1997 or earlier and the day of birth is today's date or earlier.

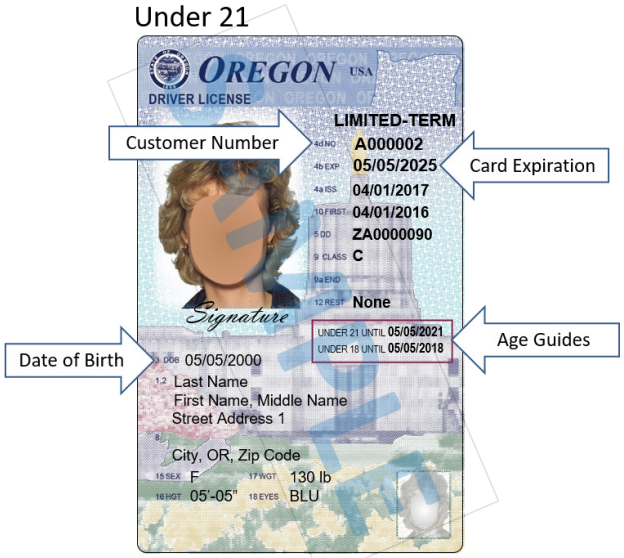
The picture on the ID must match the customer.

21 and Over

21 and older Oregon Driver's License

If the card is horizontal layout, the driver is over 21. Oregon debuted a new card design in late 2018. The photograph is on the left side with signature overlaid beneath

Under 21



Minor Oregon Driver's License

Cards issued December 2018 - July 2020

Cards issued to minors feature a vertical layout to clearly identify customers under the age of 21. Cards include the dates the customer will turn 21 years old and 18 years old inside a red box on the right side of the card. The date the customer will turn 18 only appears when the customer was issued prior to their 18th birthday. The photograph is on the top left side with signature overlaid beneath.

Under 21

How to Check Under 21 ID

The top date of the red border on the ID will say when the customer turned or will turn 21. The customer must be 21 or older to purchase tobacco. nicotine, or vaping products *

Tobacco Retail License Ordinance

APPENDIX B: Tobacco Retail Licensing Ordinance

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR

RECORDED

CLATSOP COUNTY, OREGON

JAN - 9 2020

Doc# 202001007

In the Matter of Licensing Retail Sales of Tobacco Products) ORDINANCE No. 2019-03

The People of Clatsop County, Oregon, ordain as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2019-03 the "Clatsop County Retail Sales of Tobacco Product Licensing Ordinance".

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to Chapter 3, Section 8 of the Clatsop County Home Rule Charter.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to regulate the sale of tobacco and inhalant delivery products with a goal of enhancing public health and preventing teenagers from accessing tobacco or inhalant products.

SECTION 4. ADOPTION.

The Board of County Commissioners hereby adopts the Clatsop County Retail Sales of Tobacco Products Licensing Ordinance as shown in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 5. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including its attachments or any portion therein, to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

SECTION 6. SCRIVENER'S ERRORS.

APPENDIX B: Tobacco Retail Licensing Ordinance

A scrivener's error in any portion of this ordinance or its attachments may be corrected by order of the Board of County Commissioners.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall be effective 30 days after passage.

Dated this 9 day of July ^2020.

BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

Chair

By Theresa Dursse
Theresa Dursse, Recording Secretary

First Reading: 2 "/—2 %J

Second Reading: -v-w

APPENDIX B: Tobacco Retail Licensing Ordinance

EXHIBIT A

1. Definitions.

The following words and phrases, whenever used in this ordinance, shall have the meanings defined herein unless the context clearly requires otherwise:

A. "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of any violations of this ordinance is not an Arm's Length Transaction.

B. "Cigar" means any roll of tobacco that is wrapped in tobacco leaf or in any substance containing tobacco, with or without a tip or mouthpiece, and that is not defined as a cigarette under Oregon Revised Statutes Section 323.010.

C. "Department" means Clatsop County Public Health and any agency or Person designated by the Department to enforce or administer the provisions of this ordinance.

D. "Flavored Product" means any Licensed Product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, Wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a Flavored Product.

E. "Inhalant Delivery System" means a device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device, or a component of such a device or a substance in any form sold for the purpose of being vaporized or aerosolized by such a device, whether the component or substance is sold separately or is not sold separately. "Inhalant Delivery System" does not include Tobacco Products and does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any therapeutic puipose, if the product is marketed and sold solely for that approved purpose.

F. "Licensed Product" collectively refers to any tobacco product, Tobacco Paraphernalia, or Inhalant Delivery System. "Listed or Non-Discounted Price" means the higher of the price listed for a Licensed product on its package or the price listed on any related shelving, posting, advertising or display at the place where any such products are sold or offered for sale. Listed or Non-Discounted Price includes all applicable taxes if such taxes are not included in the stated price, and before the application of any discounts or coupons.

G. "Person" means any natural person, business, partnership, cooperative association, employer, coiporation, personal representative, receiver, trustee, assignee, or any other legal entity, excluding a government agency.

APPENDIX B: Tobacco Retail Licensing Ordinance

H. "Proprietor" means a Person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a Person can, does have, or shares ultimate control over the day-to-day operations of a business.

I. "School" means any public school - including any kindergarten, elementary, middle, junior high, or high school.

J. "Tobacco Paraphernalia" means cigarette papers, wrappers, pipes, cigarette rolling machines, and any other item designed for the consumption, use, or preparation of any Tobacco Product.

K. "Tobacco Product" means any bidi, cigarette, as defined in Oregon Revised Statutes, Section 323.010 (definitions for ORS323.005 to 323.482), cigar, cheroot, stogie, perique, granulated, plug cut, crimp cut, ready rubbed, pipe tobacco and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobacco, snus, short, refuse scrap, clipping, cutting, and sweeping of tobacco. "Tobacco Product" also means any device that can be used to deliver tobacco products to a person using the device. "Tobacco Product" does not include any drug, device, or combination product authorized by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose.

L. "Tobacco Retailer" means any Proprietor or entity, as defined in Oregon Revised Statutes Section 60.001 that sells, offers for sale, or exchanges or offers to exchange, for any form of consideration, any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products, Tobacco Paraphernalia, or Inhalant Delivery Systems sold, offered for sale, exchanged, or offered for exchange.

2. License required.

A. A Tobacco Retailer License is required for each address at which any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System is sold, exchanged, or offered for sale or exchange.

B. Each applicant for a Tobacco Retailer license must meet all requirements of this ordinance and all rules adopted pursuant to this ordinance, and all federal, state, and local laws relating to the retail sale of Tobacco Products, Tobacco Paraphernalia, or Inhalant Delivery Systems.

C. A Tobacco Retailer may only make Tobacco Products available from a licensed, fixed location. Tobacco Retailing by natural persons on foot or from vehicles or mobile units is prohibited.

D. Application for a Tobacco Retailer license shall be made on forms provided by Clatsop County and shall be submitted in the name of each Proprietor proposing to conduct Tobacco Retailer sales and signed by each Proprietor or an authorized agent thereof. It shall be the responsibility of each Proprietor to be informed about all applicable laws affecting a Tobacco Retailer license. All applications for a Tobacco Retailer license shall contain the following information:

1. The name, address, and telephone number of each Proprietor of the business seeking a license;
2. The business name, address, and telephone number of the single fixed location for which a license is sought;
3. A single name and mailing address authorized by each Proprietor to receive all communications

APPENDIX B: Tobacco Retail Licensing Ordinance

and notices ("the Authorized Address") required by, authorized by, or convenient to the enforcement of this ordinance, provided that, if an Authorized Address is not provided, each Proprietor will be understood to consent to the provision of notice at the business address specified in subparagraph two (2) above;

4. Proof that the location for which a Tobacco Retailer license is sought has been issued a valid state license for the sale of Tobacco Products, Tobacco Paraphernalia and Inhalant Delivery Device if the Tobacco Retailer sells products that require state licensure;
5. Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, this ordinance and, if so, the dates and locations of all such violations within the previous five (5) years; and
6. Such other information as the Department deems necessary for the administration and enforcement of this ordinance, as specified on the required application form.

E. A licensed Tobacco Retailer shall inform the Department, in writing, of any change in the information submitted on an application for a Tobacco Retailer license within ten (10) business days of any such change.

F. A license fee shall be submitted with an application for a new license or the renewal of a license. The fee shall be established from time to time by resolution of the Clatsop County Board of Commissioners and shall be calculated so as to recover the costs of administration and enforcement of this ordinance including, but not limited to, issuing a license, administering the Tobacco Retailer license program, providing Tobacco Retailer education, conducting Tobacco Retailer inspections and compliance checks, documenting violations, and prosecuting alleged violators. The fee established shall not exceed the costs of the administration and enforcement of this ordinance. All fees and interest upon proceeds of fees shall be used exclusively to fund the costs of the administration and enforcement of this ordinance.

G. All information specified in an application pursuant to this section is subject to disclosure under the Oregon Public Records Act or any other applicable law, subject to the laws' exemptions.

H. All Tobacco Retailer licenses issued are valid for one calendar year from the date of issuance.

I. Each Tobacco Retailer license shall be prominently displayed in plain view of the general public at each licensed location and shall be exhibited to any person upon request.

J. As part of program administration, the Department shall provide educational resources to licensed Tobacco Retailers to support compliance with the license requirements. Upon request, the Department shall provide educational materials in the preferred language of a Tobacco Retailer. In addition to the provision of educational materials, the Department, in its discretion, may offer Tobacco Retailers, including managers or other employees, annual, free, culturally responsive training on federal, state, and local laws affecting Tobacco Retailers and Tobacco Retailing to support clerks, managers, and owners in meeting applicable legal requirements. The Department shall update its educational resources when federal, state, or local laws are enacted and provide the updated resources to Tobacco Retailers in a timely manner.

3. Prohibition within 1000 feet of school. No license will be issued to a Tobacco Retailer located within 1,000 feet of any school as follows:

APPENDIX B: Tobacco Retail Licensing Ordinance

A. Except as provided in subsection (B), no Tobacco Retailer license will be issued within one thousand (1,000) feet of a school as measured by a straight line from the nearest point of the property line of the lot or parcel on which the school is located to the nearest point of the property line of the parcel on which the applicant's business is located. For the purposes of this subsection, a "school" is a public kindergarten, elementary, middle, junior high or high school.

B. A Tobacco Retailer that has been in operation, or whose predecessor in interest has been in operation, at a location governed by subsection (A) above consistently since January 1, 2019, is exempt from the requirements of section (A) above. A Tobacco Retailer that has been in operation, or whose predecessor in interest has been in operation, at a location governed by subsection (A) above consistently since January 1, 2019, that would otherwise be ineligible to receive or renew a Tobacco Retailer license due to the creation or relocation of a school is exempt from the requirements of this subsection.

4. License Conveys a Limited, Conditional Privilege.

Nothing in this ordinance grants any Proprietor obtaining and maintaining a Tobacco Retailer's license any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location identified on the face of the license. Nothing in this Ordinance renders inapplicable, supersedes, or applies in lieu of any other provision of applicable law, including but not limited to, any provision of this Ordinance, or any condition or limitation on smoking in an enclosed place of employment under ORS 433.847and OAR 333-015-0068 or other federal or local ordinances. Obtaining a Tobacco Retailer's license does not make the Tobacco Retailer a certified smoke shop under ORS 433.847and OAR 333-015-0068.

5. Grounds for denial of license.

Upon receipt of a complete application for a Tobacco Retailer license and the license fee required by this ordinance, the Department shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:

A. The information presented in the application is inaccurate, misleading, or false. Intentionally supplying inaccurate, misleading, or false information shall be a violation of this ordinance;

B. The application seeks authorization for a Tobacco Retailer license at a location for which this ordinance prohibits issuance of a Tobacco Retailer license. This subparagraph shall not constitute a basis for denial of a license if the applicant provides Clatsop County with clear and convincing evidence that the applicant has acquired, or is acquiring, the location or business in an Arm's Length Transaction from a Tobacco Retailer that is exempt from all applicable location prohibitions in this ordinance;

C. The application seeks a Tobacco Retailer license for a Proprietor to whom this ordinance prohibits a license to be issued;

D. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to Licensed products, or any other violation of law related to retailing that the Department deems disqualifying;

a. The applicant has had a license to sell licensed products suspended or revoked within the

preceding 12 months of the date of application;

E. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license; or

F. The application seeks a Tobacco Retailer license for activities that are prohibited by law or municipal Ordinance including, without limitation, a zoning ordinance, building code, or business license, or that is unlawful pursuant to any other local, state, or federal law.

6. License renewal and expiration.

A. A Tobacco Retailer license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. Each Tobacco Retailer shall apply for the renewal of the license and submit the license fee no later than thirty (30) days prior to expiration of the one-year license term.

B. A Tobacco Retailer license that is not timely renewed will expire at the end of its one-year term. To renew a license not timely renewed as described herein, the Tobacco Retailer must:

1. Submit the license fee and application renewal form; and
2. Submit a signed and notarized affidavit affirming that the Tobacco Retailer:
   (a) Has not sold and will not sell any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System after the license expiration date and before the license is renewed; or
   (b) Has waited the period of time required by Section 10 of this ordinance, for the violation of Tobacco Retailing without a valid license, before seeking renewal of the license.

7. Licenses nontransferable.

Tobacco Retailer license may not be transferred from one Tobacco Retailer to another or from one location to another. Any prior violation of this ordinance at any location will continue to be counted against a location unless the location has been transferred to new proprietors(s) in an Arm's Length Transaction and the new proprietors provide the Department with clear and convincing evidence, that the business has been acquired in an Arm's Length Transaction.

8. Prohibitions.

A. No Proprietor who holds a Tobacco Retailer license issued under this ordinance, nor any employee or agent of same, shall make available, dispense, sell, offer to sell, or cause to be sold any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System:

1. Without a valid Tobacco Retailer license.
2. Outside original packaging containing health warnings required under federal law.
3. By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

B. No Person shall sell, exchange, transfer, offer to sell, exchange or transfer, or otherwise distribute any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System to any Person under the minimum legal sales age of twenty-one (21).

1. No Proprietor who holds a Tobacco Retailer license issued under this ordinance, nor any employee or agent of same, shall sell, exchange, transfer, offer to sell, exchange or transfer, or

APPENDIX B: Tobacco Retail Licensing Ordinance

otherwise distribute a Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System to another Person who appears to be under the age of thirty (30) years without first examining the government-issued photographic identification of the recipient to confirm that the recipient is at least the minimum legal sales age to purchase and possess the Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System.

2. No Proprietor engaged in Tobacco Retailing shall locate any Tobacco Products, Tobacco Paraphernalia, or Inhalant Delivery Systems in any location in a retail store or other establishment where such products are accessible by a customer without the assistance of a Tobacco Retailer or an employee or agent of the Tobacco Retailer. This prohibition does not apply to a Person in a licensed establishment that is permanently and entirely off-limits to Persons under the age of twenty-one (21) and that prohibits Persons under twenty-one (21) from entering the establishment at any time.

C. No Tobacco Retailer with a license issued under this ordinance, nor any employee or agent of same, shall:

1. Accept or redeem, offer to accept or redeem, or cause or hire any Person to accept, redeem, or offer to accept or redeem any coupon that provides any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System without charge or for less than the listed or non-discounted price; or
2. Sell, offer to sell, or cause to be sold any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System to any Person through any multi-pack discounts, such as a buy-two-get-one-free discount or a cents- or dollars-off discount, or otherwise provide or distribute to any Person any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System without charge, or for less than the listed or non-discounted price, in exchange for the purchase of any other Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System; or
3. Distribute, or cause to be distributed, any free or nominally-priced sample of any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System at any retail location or at any other public place within Clatsop County.

D. A Person without a valid Tobacco Retailer license, including, but not limited to, a Person whose license has been suspended, revoked, or not renewed shall keep all Tobacco Products, Tobacco Paraphernalia, and Inhalant Delivery Systems out of public view, and shall not display any indoor outdoor adveilisement or otherwise publish or distribute any advertisement relating to a Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System that promotes the sale or distribution of such products from the Tobacco Retailer location or that could lead a reasonable consumer to believe that such products can be obtained at that location. The public display of any Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System in violation of this provision shall constitute Tobacco Retailing without a license.

E. It is a violation of this ordinance to fail to comply with license provisions or rules adopted pursuant to this ordinance and federal, state, and local laws relating to Tobacco Retailing.

9. Enforcement and monitoring.

A. The Department will monitor and enforce compliance with this Ordinance. In addition, any peace officers may enforce the penal provisions of this Ordinance and Clatsop County Code Compliance

APPENDIX B: Tobacco Retail Licensing Ordinance

Specialist may enforce compliance with this Ordinance.

B. The Department will endeavor to inspect each Tobacco Retailer at least one time per twelve-month period. Nothing in this paragraph creates a right of action in any licensee or other Person against the County, Department or its agents.

10. Administrative penalties, license suspension or revocation.

A. In addition to any other penalty authorized by law, a Tobacco Retailer shall be charged an administrative penalty and the Tobacco Retailer's license shall be suspended or revoked if a court of competent jurisdiction determines, or the Department finds, based on a preponderance of the evidence, after the Tobacco Retailer is afforded notice and an opportunity to be heard, that the Tobacco Retailer, or any agent or employee of the licensee, has violated any of the requirements, conditions, or prohibitions of this ordinance or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 8 above.

1. Upon a finding by the Department of a first violation of this ordinance at a location within any twenty-four (24) month period, the Tobacco Retailer shall be charged an administrative penalty of $500 for a first violation.
2. Upon a finding by the Department of a second violation of this ordinance at a location within any twenty-four (24) month period, the Tobacco Retailer shall be charged an administrative penalty of $2500 and the Tobacco Retailer's license shall be suspended for thirty (30) days.
3. Upon a finding by the Department of a third violation of this ordinance at a location within any twenty-four (24) month period, the Tobacco Retailer shall be charged an administrative penalty of $5000 and the Tobacco Retailer's license shall be suspended for ninety (90) days.
4. Upon a finding by the Department of four or more violations of this ordinance at a location within any twenty-four (24) month period, the Tobacco Retailer shall be charged an administrative penalty of $7500 and the Tobacco Retailer's license shall be revoked.

B. A decision of the Department to assess a penalty and suspend or revoke a license is appealable to the Clatsop County Manager. Any appeal must be filed in writing with the County Manager within ten (10) days of mailing of the Department's decision. If such an appeal is timely made, it shall stay enforcement of the appealed action. An appeal to the County Manager is not available for a revocation made pursuant to subsection (C) below.

C. A Tobacco Retailer license shall be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under this Ordinance existed at the time application was made or at any time before the license issued. The decision by the Department shall be the final decision of Clatsop County. Such a revocation shall be without prejudice to the filing of a new license application.

D. A Tobacco Retailer whose license has been revoked due to violation of this ordinance shall not be able to reapply until five (5) years have passed from the date of violation.

11. Tobacco retailing without a valid license.

APPENDIX B: Tobacco Retail Licensing Ordinance

A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department finds, based on a preponderance of evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer license, either directly or through any agent or employee of the Person, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailer license as follows:

1. After a first violation of this section at a location within any twenty-four (24) month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty (30) days have passed from the date of the violation.
2. After a second violation of this section at a location within any twenty-four (24) month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety (90) days have passed from the date of the violation.
3. After of a third or subsequent violation of this section at a location within any twenty-four (24) month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until five (5) years have passed from the date of the violation.

B. Tobacco Products, Tobacco Paraphernalia, and Inhalant Delivery Systems offered for sale or exchange in violation of this section are subject to seizure by the Department or any peace officer and shall be forfeited after the licensee and any other owner of any Tobacco Products, Tobacco Paraphernalia, and Inhalant Delivery Systems seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products, Tobacco Paraphernalia, and Inhalant Delivery Systems were not offered for sale or exchange in violation of this ordinance. The decision by the Department may be appealed pursuant to the procedures set forth in Section 10B. Forfeited Tobacco Products, Tobacco Paraphernalia, and Inhalant Delivery Systems shall be destroyed after all internal appeals have been exhausted.

C. For the purposes of the civil remedies provided by this Ordinance, each day on which a Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System is offered for sale in violation of this ordinance, or each individual Tobacco Product, Tobacco Paraphernalia, or Inhalant Delivery System that is distributed, sold, or offered for sale in violation of this ordinance, shall constitute a separate violation of this ordinance.

12. Additional remedies.

A. The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity.

B. Violations of this ordinance are hereby declared to be public nuisances and may be abated pursuant to Chapter 1.12 of the Clatsop County Code, State law, or any applicable municipal ordinance.

C. In addition to other remedies provided in this ordinance, municipal code, or by other law, any violation this ordinance may be remedied by a civil action including, for example, through administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

APPENDIX C: Letter to Retailers

Clatsop County
Department of Public Health

820 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8500 phone / (503) 325-8678 fax
www.co.clatsop.or.us

March 5, 2020

Dear Retailer,

The Clatsop County Board of County Commissioners adopted an ordinance requiring all businesses that do retail sales of tobacco, nicotine and vaping products within Clatsop County limits are required to get a license. This applies to any business that sells these products, including:

- Convenience stores and gas stations
- Bars and hotels
- Restaurants,
- Event venues
- Grocery stores and pharmacies
- Seasonal campground stores

Enclosed with this letter please find:

- The tobacco retail license application
- A FAQ sheet explaining the process, list of tobacco products covered, and prohibitions in the ordinance
- Flyer
- ICAA decal

The Clatsop County Environmental Health Department will be contacting you to schedule a voluntary training with you and your staff throughout the spring and summer.
The application with the license fee is due when received.

We are in the process getting all of our materials, including the training materials and inspections form online, but for now you can access this application and basic information on the license at https://www.co.clatsop.or.us/publichealth/page/environmental-health.

Inspections will begin in the fall of 2020.

This new license was created to increase retailer knowledge and compliance of laws regulating the sale of tobacco and nicotine products. It is a "best practice" strategy proven to reduce youth access to tobacco.

APPENDIX C: Letter to Retailers

Please return the enclosed application by mail or in person with payment to:
Clatsop County Public Health
Environmental Health
820 Exchange St
Astoria, OR 97103.

The license fee is $350 and is valid through each calendar year. Payments for the license can made by check, cash, or credit card. Credit cards are taken in person only. There is a 2.5% added charge for credit card payments.

For more information contact Environmental Health at:
(503)325-9302
health@co.clatsop.or.us

Sincerely,

Michael McNickle, PhD, MPH, MPA, REHS
Public Health Director
Clatsop County Department of Public Health
820 Exchange Street, Suite 100
Astoria, OR 97103
Phone: 503-338-3686
FAX: 503-325-8678
Email: mmcnickle@co.clatsop.or.us