

TOWN OF DILLON, COLORADO
ORDINANCE NO. 03-25
Series of 2025

**AN ORDINANCE OF THE TOWN OF DILLON, COLORADO REPEALING AND
REENACTING CHAPTER 6 ARTICLE XII REGARDING THE LICENSING OF
TOBACCO PRODUCT RETAILERS OF THE DILLON MUNICIPAL CODE**

WHEREAS, the Town of Dillon (the “Town”) has been duly organized and is validly existing as a home rule town under Article XX, Section 6 of the Colorado Constitution and the Town Charter; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

WHEREAS, C.R.S. § 31-15-501 further allows the Town the authority to regulate businesses within the Town limits, further Article 7 of Title 44 of the Colorado Revised Statutes provides the Town with the authority to regulate tobacco sales; and

WHEREAS, the Town Council, (the “Council”) discussed limiting flavored nicotine product sales within the Town and determined that it was in the best interest of the health, safety, and welfare of the Town to disallow the sale of flavored nicotine products; and

WHEREAS, there is a special interest in reducing the number of individuals of all ages, but particularly young people, from the use of tobacco products, which cause nicotine dependence, illness, and premature death due to tobacco product use; and

WHEREAS, in light of the foregoing, the Town Council wishes to institute an amendment to the Tobacco Product Retailer License regulations in the interest of the health, safety, and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as conclusions, facts, determinations, and findings by Town Council.

Section 2. Chapter 6, Article XII of the Dillon Municipal Code, entitled Tobacco Product Retailer License is hereby repealed and reenacted to read as follows:

Article XII – Tobacco Product Retailer License

Sec. 6-12-10. – Legislative Intent.

The purpose of this Article is to safeguard public safety, welfare, and health through the Tobacco Product Retailer License and to reduce the number of individuals of all ages who use tobacco products, with particular interest in protecting young people from tobacco product use, flavored

tobacco product use and the associated nicotine dependence, illness and premature death. associated with tobacco product use.

Sec. 6-12-20. – Definitions.

The following words and phrases, as used in this Article, shall have the following meanings:

Adult-Only Facility means a physical location where each person attempting to enter the premises is required to present the person's photographic government issued identification verifying that the person is at least the minimum legal sales age for tobacco products prior to entry.

Ams Length Transaction means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing partners, neither of which is under any compulsion to participate in the transaction.

Child Resistant Packaging means packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

Cigar means any roll of tobacco other than a cigarette that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece.

Cigarette means any product that contains tobacco or nicotine that is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (b) tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by consumers as a cigarette; or
- (c) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (a) above.
- (d) the term includes all "roll-your-own," i.e., any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes.

Compliance Checks means the systems the Local Licensing Authority (Licensing Authority) uses to investigate and ensure that Tobacco Product Retailers are following and complying with the requirements of this Article. Compliance checks may involve the use of persons under twenty-one (21) years of age who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by other units of government or designees of the Licensing Authority for

educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations related to tobacco products.

Commercial Tobacco means tobacco that is manufactured and sold for profit for use in cigarettes, smokeless tobacco, pipe tobacco, cigars, hookah and other products. Commercial tobacco is regulated by the Food and Drug Administration (FDA) under the Family Smoking and Prevention Act which gives the FDA the authority to regulate the manufacture, distribution and advertising of commercial tobacco. The word “tobacco” when referenced in this Article, unless indicated otherwise, refers to commercial tobacco.

Coupon means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

Delivery Sale means the sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a tobacco retail establishment. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.

Electronic Delivery Device means any device that may be used to deliver any aerosolized or vaporized substance, whether natural or synthetic, to the person inhaling from the device, including, but not limited to, devices manufactured, marketed or sold as an e-cigarette, e-cigar, e-pipe, electronic smoking device, vape pen, or e-hookah. Electronic delivery device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic delivery device does not include medical marijuana as defined in 44-10-103(34) C.R.S. of section 14 of article XVIII of the state constitution or retail marijuana as defined in 44-10-103(57) C.R.S. or section 16(2)(f) of article XVIII of the state constitution, drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Flavored Tobacco Product means:

- (a)
 - (1) any tobacco 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;
 - (2) any tobacco product that imparts a cooling or numbing sensation distinguishable by an ordinary consumer either prior to during the consumption of such tobacco product;
- (b) Any public statement or claim, whether express or implied, made or disseminated by the manufacturer or retailer 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 or a cooling or numbing sensation will constitute presumptive evidence that the product is a flavored product. Presumptive evidence may include

but is not limited to the use of terms such as, “cool,” “chill,” “ice,” “fresh,” “artic, or “frost” to describe the product.

Full Retail Price means the price listed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.

License refers to the Tobacco Product Retailer license.

Licensee means the owner or holder of a Tobacco Product Retailer License.

Little Cigar means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than 4.5 pounds per thousand. Little cigar includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

Licensing Authority, (Authority) means an entity designated by the Town Council authorized to act pursuant to this Article.

Loosies means the common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars as defined in this section.

Manufacturer means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

Minimum Legal Sales Age means twenty-one (21) years of age.

Moveable Place of Business means any form of business operation, event or occurrence related to tobacco products that is operated out of a kiosk, truck, van, automobile or any other type of vehicle or any transportable shelter or other transitory or temporary location and including, but not limited to, any event or festival intended to occur at any location that is not a fixed storefront authorized as a tobacco product retailer in an approved tobacco product retail license by the Town.

Nicotine or Nicotine Delivery Product means any product containing or delivering nicotine, including any salt or complex of nicotine whether natural or synthetic, intended for human consumption, or any part of such a product, that is not tobacco, or an electronic delivery device as defined in this section. Nicotine or Nicotine Delivery Product does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

Person means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

Pharmacy means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of Colorado and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

Premium Cigar means a cigar that meets all of the following characteristics:

- (a) is handmade or hand rolled;
- (b) is not mass produced through the use of mechanization;
- (c) has a wrapper that is made entirely from whole tobacco leaf;
- (d) has a filler composed of at least fifty (50) percent natural, long-leaf filler tobacco;
- (e) does not have a filter, tip or non-tobacco mouthpiece;
- (f) is capped by hand;
- (g) weighs more than six (6) pounds per thousand units; and
- (h) has a wholesale price per cigar of:
 - (1) for the calendar year ending December 31, 2024, twelve dollars (\$12) dollars; and
 - (2) for each calendar year thereafter, twelve dollars (\$12) reflecting any percentage increase for all items and all urban consumers or its successor index

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 (10) percent 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 has or shares ultimate control over the day-to-day operations of a business.

Retail Tobacco Business means any place of business where licensed tobacco products are available for sale to the general public and includes, but is not limited to, grocery stores, tobacco product shops, convenience stores, liquor stores and gasoline service stations.

Sale or Sell means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

Self-Service Display means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes carrying or using an electronic smoking device.

Tobacco Festival means an age-restricted off-site tobacco event pursuant to 44-7-105.5, C.R.S.

Tobacco Paraphernalia means any item designed for the consumption, use or preparation of Tobacco Products.

Tobacco Product means:

- (a) Any product containing, made of, or derived from commercial tobacco, nicotine or synthetic nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, products commonly known as a cigarette, a cigar, pipe tobacco, chewing tobacco, electronic smoking device, snuff, or snus; and pouch.
- (b) Any electronic delivery device as defined in this section; and
- (c) Any component, part, or accessory of (a) or (b), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

Tobacco Product does not mean:

- (a) Any products specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence or for other medical purposes, when the products are being marketed and sold solely for such approved purposes. Any drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act;
- (b) “Tobacco product” does not include medical marijuana as defined in 44-10-103(34) C.R.S. of section 14 of article XVIII of the state constitution or retail marijuana as defined in 44-10-103(57) C.R.S. or section 16(2)(f) of article XVIII of the state constitution, drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act unless such product is made of, contains or is derived from tobacco or nicotine, natural or synthetic.

Tobacco Product Related Device means any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. Tobacco product related devices include components of tobacco-related devices or tobacco products which may be marketed or sold separately. Tobacco product related devices may or may not contain tobacco.

Tobacco Product Retailer means any person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, commercial tobacco and/or tobacco products. This

definition is without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.

Tobacco Product Retailing means the selling, offering for sale, or exchanging for any form of consideration a Tobacco Product.

Tobacco Product Retail Location or Retail Location means any premises where Tobacco Products are sold.

Vending Machine means any mechanical, electric or electronic, or other type of device that dispenses tobacco products upon payment by any form by the person seeking to purchase tobacco product(s).

Youth-Oriented Facility means a parcel in the Town that is occupied by:

- (a) a private or public kindergarten, elementary, middle, junior high, or high school;
- (b) a library open to the public;
- (c) a playground open to the public;
- (d) a youth center, defined as a facility where children, ages 6 to 17, meet for programs and activities;
- (e) a recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes;
- (f) a park open to the public or to all the residents of a private community;
- (g) a licensed child-care facility or preschool.

Sec. 6-12-30. – Applicability.

This Ordinance applies to any establishment located in the Town selling any cigarettes, tobacco products and /or nicotine products, natural or synthetic, hereinafter referred to as “tobacco products” offered for sale at retail.

Sec. 6-12-40. – Tobacco Product Retail License Required.

It shall be unlawful for any person to act as a tobacco product retailer in the Town without first obtaining and then maintaining a valid tobacco product retail license pursuant to this Article for each location where tobacco product retailing is to occur. Tobacco product retailing without a valid state tobacco product retail license pursuant to section 44-7-104.5, C.R.S. and a valid local tobacco product retail license pursuant to this Article. Failure to obtain and maintain a local tobacco product license is declared a public nuisance which may be abated pursuant to the provisions for the abatement of nuisance provided for in Chapter 7, Article 1 of this Code.

- (a) In the course of tobacco product retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation of this Article for a licensee or any of the licensee's agents or employees to violate any local, state or federal law applicable to tobacco products, tobacco paraphernalia or tobacco product retailing.
- (b) Except as expressly modified herein, any requirements set forth in this Article shall be in addition to, and not in lieu of, any other requirements imposed by any federal, state or local law.
- (c) No person shall be deemed to have any entitlement or vested right to a license under this Article by having received any prior license or permit from the Town including but not limited to, any zoning permit or any sales tax license.

Sec. 6-12-50. – Limits on License Eligibility.

- (a) Location Restrictions Imposed.
 - (1) Prior to approving a tobacco product retail license, the Licensing Authority shall determine whether the proposed location of the tobacco product retail establishment complies with the requirements of this section of this Article. Failure to comply with the requirements of this section shall preclude approval and issuance of a license.
 - (2) Each tobacco product retail establishment shall be operated from a permanent location. No tobacco product retail establishment shall be permitted to operate from a moveable place of business or transitory location as defined in **Sec. 6-12-20**.
 - (3) A tobacco product retail establishment may be located only on property as allowed in the table of uses as defined by the Town.
 - (4) Proximity to a School or Youth-Oriented Facility. No license may issue, and no existing license may be renewed, to authorize tobacco product retailing within one-thousand five hundred (1500) feet of a school or youth-oriented facility as measured by a straight line from the nearest point of the property line of the parcel on which the school or youth-oriented facility is located to the nearest point of the property line of the parcel on which the applicant's business is located.
 - a. The foregoing distance requirements shall be computed by direct measurement in a straight line from the nearest property line of the land used for a school or youth-oriented facility and a tobacco product retail establishment to the nearest portion of the building in which the tobacco product retail establishment is the subject of the application is proposed to be located.

(5) No tobacco product retail establishment may be located within one-thousand five hundred (1500) feet of another tobacco product retail establishment measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing tobacco product retail establishment is located.

(6) Proximity to Medical Marijuana or Retail Marijuana Licensed Retailer. No tobacco product retail license may issue, and no existing license may be renewed, to authorize tobacco product retailing within one thousand five hundred (1500) feet of an existing medical marijuana or retail marijuana licensed business as defined in Title 44 Article 10, C.R.S. measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing medical or retail marijuana licensed business is located.

(b) Maximum Number of Tobacco Product Retail Licenses.

(1) The maximum number of tobacco product retail licenses located and operating in the Town is limited to ten (10).

- a. An exception for the issuance of a tobacco product retail license is available at the discretion of the Licensing Authority for an existing retail establishment operating and selling tobacco products prior to the effective date of this Ordinance that is located less than 1500' from a school or youth-oriented facility if all other licensing requirements pursuant to this Article are met. This exception is not applicable if the tobacco product retail establishment is transferred to a new owner in an arm's length transaction.
- b. The Licensing Authority shall keep accurate records of the number of tobacco product retail licenses issued.
- c. Licenses shall be processed based on the submittal date of a completed application.

Sec. 6-12-60. – Prohibited Licensees.

(a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a tobacco product retail license, and no license provided by this Article shall be issued to, or held by:

- (1) Any person until all applicable fees for the license have been paid;
- (2) Any person not of good moral character;

- a. In evaluating the good moral character of the individual identified on an application or amendment thereof, the authority shall consider the following:
 - i. Laws, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants;
 - ii. Any findings as to good moral character previously made by the state licensing authority; and
 - iii. Any additional information the authority may request of the individual if the individual has a violation of any laws, or items disclosed by the individual which require additional information in order for the authority to make a determination regarding issuance of the license.
- b. Any corporation, partnership, limited liability company, or other entity whose officers, members, partners, directors or stockholders are not of good moral character;
- c. Any natural person who is under twenty-one (21) years of age;
- d. Any person who, in the immediately preceding twelve (12) months had a tobacco product retail license revoked or suspended by the state, or by another licensing authority in any other jurisdiction;
- e. Any person who has been convicted of a felony that is deemed a crime of violence or has completed any portion of a felony sentence within the preceding five (5) years;
- f. A person licensed pursuant to this Article who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
- g. A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority, the authority, or the Town.
- h. Pharmacies. No license may be issued, and no existing license may be renewed, to authorize tobacco product retailing in a pharmacy.

Sec. 6-12-70. – Local License Authority Powers and Duties.

The Local Licensing Authority shall have the following powers and duties, and any other responsibilities as deemed appropriate by the Town:

- (a) To require an applicant or licensee to furnish any relevant information required by the Authority; and
- (b) To administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing that the authority is authorized to conduct. The Authority may adopt public hearing procedures by resolution; and
- (c) The Authority in its discretion, upon application in the prescribed form, may approve, conditionally approve, or deny an applicant a local tobacco product retail license subject to the provisions and restrictions provided in this Article; and
- (d) Retailer Education. The Authority or its designees shall provide education to retailers as the Authority deems appropriate about the tobacco product retail license, license administration, renewal and responsibilities associated with a tobacco product retail license.
- (e) The Licensing Authority may adopt administrative rules and regulations as may be necessary for the proper administration of this Article. The Licensing Authority may from time to time and in consultation with the Town Clerk and Town Manager adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Article.

Sec. 6-12-80. – License Application.

- (a) The Licensing Authority shall not accept an application for a tobacco product retail license unless and until the Authority has received a copy of the applicant's state retail tobacco product license pursuant to 44-7-104.5, C.R.S. for the proposed licensed premises and the non-refundable local license application fee as outlined in the Town's fee schedule.
- (b) After the Licensing Authority has received a copy of the state license and the application fee, an applicant seeking to obtain a license pursuant to this Article may file an application for a tobacco product retail license with the Licensing Authority located at the Town Clerk's office located at 275 Lake Dillon Drive, Dillon, CO 80435 between the hours of 8:00 a.m. to 5:00 p.m. on regular Town business days. The form of the application, approved by the Town attorney, shall include all information required by this Article and any additional information requested by the Licensing Authority if such information is reasonably necessary to complete the investigation and review of the application.
- (c) At the time of application, an applicant shall present a suitable form of identification and the following information, which information may be required for the applicant, the proposed manager of the tobacco product retail establishment, and all persons having a financial interest in the business that is the subject of the application or, if the applicant is an entity, holding any ownership interest in the issued and outstanding capital stock or other ownership interest of the entity:

- (1) Name, address, and date of birth of the owner(s) and any managers of the applicant.
- (2) If the owner is a corporation, partnership, limited liability company, or other business entity, the name(s), social security number(s), and address(es) of any officer or director of the entity and of any person holding any of the issued and outstanding capital stock or other ownership interest in the entity.
- (3) A statement of whether or not any person holding any ownership interest in the proposed tobacco product retail establishment has:
 - a. Been denied an application for a tobacco product retail license by the state or any other local jurisdiction;
 - b. Has had such license suspended or revoked;
 - c. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five years;
- (4) Proof that the applicant has paid all application and other applicable fees;
- (5) If applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
- (6) An acknowledgement and consent that the Town may conduct a background investigation, including a criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the applicant, including records of deposit, withdrawals, balances, and loans;
- (7) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of applicant to possess, the proposed licensed premises;
- (8) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail tobacco product establishment and authorizing the Town to enter the property for inspection of the proposed licensed premises on a form approved by the Town;
- (9) Evidence of a valid local and state sales tax license for the business;
- (10) Proof that the proposed tobacco product retail establishment will be located in a location that permits such land use pursuant to this Article and other applicable provisions of this code;
- (11) An area map, drawn to scale, indicating, within a radius of one-quarter mile from the boundaries of the property upon which the tobacco product retail

establishment is proposed to be located, the distance between the nearest property line of the land used for any school or youth-oriented business and the nearest portion of the building in which the tobacco product retail establishment is proposed to be located, measured in feet. The map shall also indicate, within a radius of one-quarter mile from the boundaries of the property upon which the tobacco product retail establishment is proposed to be located, the distance between the nearest property line of land for which any tobacco product retail license has been approved or issued and the nearest portion of the building in which the tobacco product retail establishment that is the subject of the application is proposed to be located, measured in feet;

- (12) A comprehensive business operation plan for the tobacco product retail establishment that shall contain, at a minimum, the following:
 - a. A description of the products to be sold by the tobacco product retail establishment; and
 - b. A plan for exterior signage that complies with all applicable requirements of this code, including photographs and/or illustrations of proposed signage including requirements pursuant to 44-7-104.7(2), C.R.S.
- (13) Any additional information that the licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.
- (14) A license issued pursuant to this Article does not eliminate the need for the licensee to comply with other provisions of this code and to obtain other required Town licenses and licenses related to the operation of the approved tobacco product retail establishment, including, without limitation:
 - a. Any required land use approval, if applicable; and
 - b. A Town business and sales tax license.
- (15) A licensee must inform the Licensing Authority in writing of any change in the information submitted in its application within thirty (30) days of the change.

Sec. 6-12-90. – Investigation of Application.

- (a) Upon receipt of an application for a tobacco product retail license, the Licensing Authority shall determine whether the application is complete and notify the applicant in writing of any deficiencies.
- (b) Upon receipt of a properly completed application, together with all information required in connection therewith and the payment of all fees as required by this Article, the Licensing Authority shall circulate copies of the application to the

administrative services department, the police department, the fire department, the building official and to any other Town department the Authority deems necessary in order to determine whether the proposed facility is or will be in compliance with any and all applicable local laws, rules and regulations.

- (1) License applications shall be processed in order of submittal date of a complete application.

Sec. 6-12-100. – Public Hearing Requirements.

- (a) Prior to making a decision on an initial application the Licensing Authority shall hold a public hearing not less than thirty (30) days after receiving a complete application. The Authority shall set the date and time and send written notice of the hearing to the applicant by regular mail, postage prepaid. The Authority shall post notice of such public hearing on the proposed premises and shall publish public notice thereof not less than ten (10) days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which the application has been made and by publication in a newspaper of general circulation.
- (b) Notice given by posting shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant.
- (c) Notice given by publication shall contain the same information as that is required for public hearing signage.
- (d) If the building in which tobacco product retailing is to occur is in existence at the time the application is filed, any sign posted as required in this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time the application is filed, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
- (e) Not less than five (5) days prior to the public hearing, authority staff shall provide to the applicant preliminary written findings concerning the application based upon its investigation. Authority staff shall provide such preliminary written findings to other parties of interest upon their request. Preliminary written findings shall not constitute a decision of the authority concerning approval or denial of an application.
- (f) The Licensing Authority will hear testimony and evidence from parties in interest at the public hearing concerning the following issues:
 - (1) Whether the applicant has violated, does not meet, or has failed to comply with the requirements of this Article or state law;
 - (2) Whether the issuance of the license will adversely impact the health, safety, or welfare of the residents of the Town.

Sec. 6-12-110. – Decision on Application.

The Licensing Authority may approve an application and issue a license under this Article when, after thorough consideration of the application, and from review of such other information as required by this Article the Authority determines that the applicant complies with all of the requirements of this Article and state law.

Sec. 6-12-120. – Content of License.

A license shall contain the following information:

- (a) The name of the licensee;
- (b) The date of the issuance of the license;
- (c) The address at which the licensee is authorized to operate the tobacco product retail establishment;
- (d) Any special conditions of approval imposed upon the license by the Licensing Authority, pursuant to notice of decision, as follows; and
- (e) The date of the expiration of the license.

Sec. 6-12-130. – License Term and Fees.

- (a) Each license issued pursuant to this Article shall be valid for one year from the date of issuance and may be renewed as provided in this section.
- (b) A licensee shall renew their license issued pursuant to this Article annually. Any renewal of the license shall be governed by the standards and procedures set forth in this Article or promulgated by the Licensing Authority.
- (c) An application for the renewal of an existing license shall be made to the Licensing Authority at least forty-five (45) days prior to the date of expiration. The licensee shall apply for renewal using forms provided by the Authority.
 - (1) If the applicant fails to apply for renewal at least forty-five (45) days before the expiration of the license, but does apply for renewal prior to expiration of the license, the Licensing Authority may process the renewal application if the applicant submits the late filing fee established in the Town's fee schedule at the time of submittal of the renewal application. Such fee is non-refundable.
 - (2) The process for renewal shall be administrative provided that any decision not to renew shall be made by the Licensing Authority in accordance with the requirements set forth in this Article.

- (3) The renewal application shall include verification that the tobacco product retail establishment has a valid state license issued by the state licensing authority, and that such license is in good standing.
- (4) Failure of the licensee to renew and keep its state or local license current and valid or to make timely payment of the local licensing or operating fees shall be grounds for revocation of any license issued pursuant to this Article.
- (d) At least annually, the Town Council may review the fees assessed pursuant to this section and, if necessary, adjust such fees to reflect the direct and indirect costs incurred by the Licensing Authority and the Town in connection with the administration, retailer education and enforcement of the licensing program including the costs associated with unannounced compliance checks. The Town Council shall adjust such fees as necessary by resolution.
- (e) The license fee shall be set forth in the Schedule of Fees found in Chapter 19 of this Code. The fees for initial applications, but not renewals, shall be prorated at the time of application for the number of months remaining in the first licensing year.
- (f) In the event that any license is suspended or revoked, no refund shall be made to the licensee. Further, no refund shall be made to any licensee who discontinues engaging in the tobacco product retail business during the licensing year. However, if an initial license or renewal license application is denied, the Town shall return the license fee submitted with the application to the applicant.
- (g) All fees and interest upon the fees collected pursuant to this Article shall be used exclusively to fund the tobacco product retail licensing program. Fees are non-refundable except as may be required by law.

Sec. 6-12-140. – License Non-Transferable.

- (a) A tobacco product retailer license may not be transferred or assigned from one person to another or from one location to another. A separate license is required for each address and a new tobacco product retailer license is required when a tobacco product retail location has a change in proprietors.
- (b) Past Violations. Notwithstanding any other provision of this Article, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
 - (1) the location has been transferred to new proprietor(s) in an arm's length transaction; and
 - (2) the new proprietor(s) provide the authority with clear and convincing evidence that the new proprietor(s) have acquired the establishment in an arm's length transaction.

Sec. 6-12-150. – General Requirements.

- (a) Display of License. Each tobacco product retail license shall be displayed in a publicly visible location at the licensed premises at all times.
- (b) Signage and Advertising.
 - (1) Any person who sells or offers to sell tobacco products shall display a warning sign pursuant to 44-7-103(3), C.R.S.
 - (2) The warning sign must be displayed in a prominent place in licensed premises at all times, must have a minimum height of three inches and a width of six inches, and must read as follows:

WARNING

IT IS ILLEGAL TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE. STATE LAW REQUIRES THAT, TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THIS RETAIL LOCATION, A PERSON MUST PRESENT A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF PURCHASE IF THE PERSON APPEARS TO BE UNDER FIFTY YEARS OF AGE.

- (3) A tobacco product retailer shall not advertise an electronic delivery (smoking) device product in a manner that is visible from outside the retail location at which the product is offered for sale pursuant to 44-7-104.7, C.R.S.
 - (c) Lawful Business Operation. In the course of tobacco product retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this Article for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco product retailing.
- (d) Pricing and Packaging.
 - (1) Packaging and Labeling. No tobacco product retailer shall sell any tobacco product to any consumer unless the tobacco product:
 - a. Is sold in the manufacturer's packaging intended for sale to consumers; and
 - b. Conforms to all applicable federal labeling requirements; and
 - c. Conforms to all applicable child-resistant packaging requirements.
 - (2) Display of Price. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed on the tobacco product or on any related

shelving, posting, advertising, or display at the location where the item is sold or offered for sale.

(3) Minimum Package Size for Little Cigars and Cigars. No tobacco retailer shall sell:

- a. any little cigar unless it is sold in a package of at least twenty (20) little cigars; or
- b. any cigar unless it is sold in a package of at least six (6) cigars; provided, however, that this subsection shall not apply to a premium cigar as defined in this Article.

(e) Employee Tobacco Product Sales. A retailer shall not permit a person under twenty-one (21) years of age to sell or participate in the sale of tobacco products.

(f) Minimum Legal Sales Age. No person engaged in tobacco product retailing shall sell a tobacco product to a person under twenty-one (21) years of age.

(g) Positive Identification Required. No person engaged in tobacco product retailing shall sell a tobacco product to a person without first verifying by means of a government issued photographic identification that the recipient is at least twenty-one (21) years of age. A retailer shall require any person who seeks to purchase a tobacco product(s) and who appears to be under fifty (50) years of age to present to the retailer a valid government-issued photographic identification at the time of purchase pursuant to 44-7-103(1), C.R.S.

Sec. 6-12-160. – Prohibited Acts.

(a) Self-Service Product Displays Prohibited. Tobacco product retailing by means of a self-service display in which tobacco products are accessible to consumers without the assistance of the licensee or an employee or agent of the licensee are prohibited. A vending machine is a form of a self-service display.

(b) Distribution of Tobacco Product Samples or Tobacco Product Promotional Items Prohibited. It is unlawful for any person to distribute free or nominally priced tobacco products.

(c) Prohibition of Tobacco Product Coupons and Discounts. No tobacco product retailer shall:

- (1) Honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price; or
- (2) Sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or

- (3) Provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.
- (d) Onsite Delivery of Tobacco Products Prohibited. The delivery of tobacco products from a licensed tobacco product retail establishment to a person who is not another licensed tobacco product retailer is prohibited.
 - (1) This section does not apply to the direct shipment of cigars or pipe tobacco that is not restricted pursuant to 44-7-104.7, C.R.S.
- (e) False/Misleading Advertising Prohibited. A tobacco product retailer without a valid tobacco product retailer license or a proprietor without a valid tobacco product retailer license, including, for example, a person whose license has been suspended or revoked:
 - (1) Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco product retailing without a license under this Article; and
 - (2) Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco product retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
- (f) Sale or Offering for Sale Flavored Tobacco Products Prohibited. The sale or offering for sale flavored tobacco products as defined in Sec. 6-12-20 of this chapter is prohibited.

Sec. 6-12-170. – Compliance Checks.

- (a) Retail Compliance Checks. All Licensed premises must be open to inspection by law enforcement or other authorized official during regular business hours. From time to time, but at least two (2) times per year, the Town will conduct compliance checks by engaging with persons under the age of twenty-one (21) to attempt to purchase tobacco products at each licensed retail location where tobacco products are sold.
 - (1) The Town shall perform a compliance check by engaging a person who is under twenty-one (21) years of age to enter a retail location to purchase tobacco products.
 - (2) Prior written consent is required for any minor who participates in a compliance check. Under-aged individuals participating in compliance checks will be supervised by law enforcement or other designated personnel and will not be guilty of illegal possession or illegal procurement when those items are obtained as a part of the compliance check. The Town shall not enforce any law establishing a minimum age for tobacco product purchases or possession

against an individual who otherwise might be in violation of such law because of the individual's age (hereinafter "underage operative") if the potential violation occurs when:

- (a) the underage operative is participating in an inspection supervised by a peace officer, code enforcement official, or the Licensing Authority designated to monitor compliance with this Article;
 - (b) the underage operative is acting as an agent of the Town, the Licensing Authority or an entity designated by the Town to monitor compliance with this Article; or
 - (c) the underage operative is participating in an inspection funded in part, either directly or indirectly through subcontracting, by the Summit County Health Department, the Colorado Department of Public Health and Environment or the Colorado Department of Revenue.
- (3) If the compliance check results in a violation pursuant to this Article the Licensing Authority will conduct an additional compliance check of the retail location where the violation occurred within forty-five (45) days.
- (4) Any decision made by the Licensing Authority to approve, conditionally approve, or deny a license application, to revoke or suspend a license, or to renew or not renew a license shall be a final decision which may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No defense or objection may be presented for judicial review unless it is first presented to the Licensing Authority prior to the effective date of the Authority's decision.

Sec. 6-12-180. – Non-Renewal, Suspension Revocation of License.

- (a) A license issued pursuant to this Article may be suspended, fined, restricted, or revoked by the Licensing Authority for the following reasons:
- (1) Fraud, misrepresentation or a false statement of material fact contained in the license application;
 - (2) A violation of any local, state or federal law or regulation;
 - (3) A violation of any of the terms and conditions of the license;
 - (4) A violation of any law which, if occurring prior to the submittal of the application, could have been cause for denial of the license application;
 - (5) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order;

(6) A violation of any of the provisions of this Article, or

(7) Good cause.

(b) Hearing, Burden of Proof.

(1) The Town Clerk, the police chief or any other official representative of the Town may request in writing that a license issued under this Article be suspended or revoked. Additionally, the Licensing Authority may, on its own motion or on complaint, after investigation and opportunity for a public hearing, impose revocation or suspension of a license. The written request or complaint to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The Town Council, sitting in its official capacity, shall preside over the public hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail, prepaid postage, to the licensee at least ten (10) days prior to the hearing date.

(4) The hearing must be conducted based on the allegations provided in the written request or complaint. The burden shall be on the Town to prove by a preponderance of the evidence that the licensee has violated the provisions of subsection (a) above.

(5) The authority will hear testimony and evidence from parties of interest at the public hearing.

(6) A written decision must be provided to the licensee within ten (10) business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown on the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the authority may impose reasonable conditions. The Licensing Authority shall be authorized to enter into stipulations with any licensee at or following the public hearing.

(d) Any decision made by the authority shall be a final decision and may be appealed to the district court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the suspension or revocation of the license.

Sec. 6-12-190. – Penalties, Injunctive Relief.

(a) It is unlawful for any person to violate any of the provisions of this Article. Any such violation is hereby designated a criminal offense and any person found guilty of

violating any provisions of this Article shall, upon conviction thereof, be punished pursuant to Section 1-4-20 of this Code. Each day that a violation of any of the provisions of this Article continues to exist shall be a separate and distinct violation.

- (b) In addition to all other remedies available to the Town under this Code and by law, the operation of a tobacco product retail establishment without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction.

Section 3. Severability. The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause, or portion of the Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 4. Effective Date. This Ordinance shall take effect six months after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY THIS 11th DAY OF FEBRUARY, 2025.

PASSED, ADOPTED, AND APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS 11th DAY OF MARCH, 2025.

Signed by:



TOWN OF DILLON,
a Colorado Municipal Corporation

Signed by:

Carolyn Skowyr

A5099C000BFD407...
Carolyn Skowyr, Mayor

ATTEST:

DocuSigned by:

Adrienne Stuckey

B547C520A015476...
Adrienne Stuckey, Town Clerk