

**ORDINANCE NO. 2024-012**  
**AN ORDINANCE CREATING CHAPTER 7,**  
**CIGARETTE, ELECTRONIC VAPING DEVICES AND TOBACCO PRODUCTS,**  
**OF THE MUNICIPAL CODE FOR THE VILLAGE OF SISTER BAY**

**WHEREAS**, the Municipal Code for the Village of Sister Bay currently does not address Cigarette and Tobacco licensing; and,

**WHEREAS**, 2023 Wisconsin Act 73 was passed on December 6, 2023, which repealed and recreated various sections within Wis. Stats. Chapter 134, and created a section to add licensing requirements for electronic vaping devices.

**NOW, THEREFORE**, the Village Board of the Village of Sister Bay enacts an ordinance upholding state statutes and do hereby ordain as follows:

**SECTION 1** Create Chapter 7 Regulating the Licensing of Cigarette, Electronic Vaping Devices, and Tobacco Products Retailers as follows,

**CHAPTER 7 – CIGARETTES, ELECTRONIC VAPING DEVICES, AND TOBACCO PRODUCTS**

**Sec. 7.00 State Statutes Adopted.**

The provisions of Wis. Stats., §134.65 and §134.66, relating to the use of cigarette, electronic vaping devices, or tobacco products, are adopted and made a part of this Chapter by reference. Any future amendments, revisions, or modifications of the Statutory regulations in Chapter 134 incorporated herein are intended to be made a part of this Chapter in order to secure, to the extent legally practicable, uniform statewide regulation of cigarette, electronic vaping devices and tobacco products.

**Sec. 7.01 Definitions.**

The definitions contained in Wis. Stats., §134.65 and §134.66, as from time to time amended, revised or renumbered, pertaining to licensing, restrictions, and prohibitions on the distribution, purchase, possession and use of cigarettes, tobacco, tobacco related materials and products of all kinds, and vaping related materials and products of all kinds, are hereby adopted and made a part of this Chapter by reference. “Village Clerk”, “Deputy Clerk” and “Village Board” refer to the Village Clerk, Village Deputy Clerk and the Board of Trustees of the Village of Sister Bay.

**Sec. 7.02 Licenses Required.**

- (a) No person, firm, partnership, corporation, organization, cooperative, association, or other entity shall, themselves, cause another to, in any manner, upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away or attempt to sell, exchange, barter, dispose of or give away, any cigarette or tobacco product, or electronic vaping device to any person not holding a license as provided by Wis. Stats. §139.30 to §139.41 or §139.79 without first obtaining a license issued by the Village of Sister Bay.

- (b) No license will be issued unless the applicant specifies in the license application whether the applicant will sell, exchange, barter, dispose of, or give away the cigarette, tobacco, or vapor products over the counter or in a vending machine, or both.
- (c) Upon filing of a proper written application, a license shall be issued by the Village Clerk or Deputy Clerk under the authority of the Village Board. The license fee, as set forth in the most recently adopted Fee Schedule for the Village of Sister Bay at the time the application is made, shall be paid to the Village Treasurer before the license is issued.
- (d) Each license shall name the licensee and specifically describe the premises where such business is to be conducted. Such licenses shall not be transferable from one person to another nor from one premise to another.
- (e) Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes, tobacco, and vapor products. Such records shall be preserved on the licensed premises for two years in such a manner as to ensure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.
- (f) The provisions for training under Wis. Stats. §134.66(2m) as amended or modified from time to time is hereby incorporated by reference.

**Sec. 7.03 Form of Application.**

All applications shall be on state prescribed forms. The form shall require all of the following information from an applicant:

- (a) The applicant's history relevant to the applicant's fitness to hold a license under §7.02.
- (b) The kind of license for which the applicant is applying.
- (c) The premises where cigarettes, electronic vaping devices or tobacco products will be sold or stored.
- (d) If the applicant is a corporation, the identity of the corporate officers and agent.
- (e) If the applicant is a limited liability company, the identity of the company members or managers and agent.
- (f) The applicant's trade name, if any.
- (g) Whether the applicant will sell, exchange, barter, dispose of, or give away the cigarettes, electronic vaping devices, or tobacco products over the counter or in a vending machine, or both.
- (h) Any other information required by the department of revenue.

**Sec. 7.04 Term of License.**

Each license shall be issued on the first day in July in each year, or thereafter whenever applied for, and shall continue in force from the date of issuance until the succeeding June 30th, unless sooner revoked or suspended for any violation of this chapter.

**Sec. 7.05 Sales to Underage Persons Prohibited.**

- (a) No person, firm, partnership, corporation, organization, cooperative, association, or other entity shall, themselves, cause another to, in any manner, upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away or attempt to

sell, exchange, barter, dispose of or give away, any cigarette or tobacco product, or electronic vaping device to any underage person.

- (b) All retailers shall post and, at all times, maintain a conspicuous sign clearly visible to the public in areas within their premises where cigarettes, tobacco and vaping products are displayed and/or sold to consumers stating that the sale of any such cigarette, tobacco or vaping product to a person under the age of 21 is unlawful under state law and village ordinance.

**Sec. 7.06 Licensee Responsible.**

- (a) The licensee shall, at all times, be personally responsible for the faithful observance and performance of each and every provision of this article and state law upon the licensee's premises by the licensee and each and every of the licensee's employees, agents and/or representatives.
- (b) A violation of any provision of this article or state law by the licensee's employees, agents and/or representatives upon the licensee's premises shall constitute a violation of the licensee.
- (c) The licensee shall be responsible for payment of any and all forfeitures imposed against any of the licensee's employees, agents, and/or representatives for violations of this article or state law upon the licensee's premises.

**Sec. 7.07 Denial, Revocation or Suspension of Licenses.**

The Village Board shall have the power to deny, revoke or suspend any license or permit issued under this article for a violation of this article.

- (a) Denial of a license. The Village Board shall have the power to deny a license:
  - 1. If the applicant, being any individual, any partner of a partnership, any member of a limited liability company, any agent of a limited liability company or corporation, and any officer of a corporation, has been convicted of a felony (unless duly pardoned).
  - 2. If the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application.
  - 3. If the applicant has falsified the application.
  - 4. If the applicant has failed to submit proof that the person to whom such license is to be issued is the holder of a seller's permit or sales and use tax registration certificate, is registered to collect, report, and remit sales and use tax, or has been informed by an employee of the department that the department will issue a seller's permit or sales and use tax registration certificate to that person or register that person to collect, report and remit sales and use tax. In the case of a single-owner entity that is disregarded as a separate entity under ch. 71, the requirement to hold a seller's permit is satisfied if the seller's permit is in the name of either the disregarded entity or its owner. ["Department" in this section refers to Department of Revenue.]
- (b) Revocation or suspension of a license. The Village Board shall have the power to revoke or suspend any license as follows:
  - 1. The proceedings shall be commenced by a summons, signed by the Village Clerk, directed to any peace officer, commanding the licensee to appear before the Village Board on a day and place named in such summons, not less than 20 days from the date

revoked or suspended. The summons may be served on the licensee personally or upon the person in charge of the place to which the license is related.

2. A complaint signed by the Village Clerk stating the grounds for the proposed revocation or suspension shall be served at the same time as the summons.
3. If the licensee does not appear at the hearing, the complaint shall be taken as true. If the licensee appears at the hearing and denies the complaint, each party may produce witnesses and be heard by counsel. If, upon such hearing, the Village Board shall find that any of the alleged grounds stated in the complaint are true, the license may be suspended for not less than 10 days nor more than 90 days or be revoked. If the Village Board finds the complaint to be untrue, the proceedings shall be dismissed without costs to the accused. When a license is suspended or revoked, it shall be entered of record by the Village Clerk or Deputy Clerk and the Village Clerk or Deputy Clerk shall forthwith notify the Wisconsin Department of Revenue of such suspension or revocation. No other license shall be granted to such person within 12 months of the date of a license revocation nor shall any part of the money paid for any license so suspended be revoked or refunded.

**SECTION 2 Available for Inspection.**

A copy of this code section shall be permanently on file and open to public inspection in the Office of the Village Clerk two weeks prior to its adoption and after its enactment.

**SECTION 3 Ordinances in Conflict.**

All other ordinances in conflict herewith be, and the same hereby are repealed.

**SECTION 4 Effective Date.**

This ordinance shall take effect and be in full force from and after its passage and publication according to law, which shall be the date the signed ordinance is filed with the Village Clerk.

**SECTION 5 Severability.**

If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

VILLAGE OF SISTER BAY

By: 

Nate Bell, President

ATTEST:

Heidi Teich

Heidi Teich, Village Clerk

Ayes 7 Nays 0

Filed/Posted: Apr. 17, 2024  
Village Administration Office, 2383 Maple Dr.  
Sister Bay Post Office, 10685 N Bay Shore Dr.  
Sister Bay Liberty Grove Library, 2323 Mill Rd.