

STATE OF ILLINOIS)
) SS
COUNTY OF OGLE)

ORDINANCE NO. 2015-0601

AN ORDINANCE APPROVING A ZONING MAP AMENDMENT ON PROPERTY
LOCATED AT 8062 S. IL ROUTE 2, 8044 S. IL ROUTE 2 AND 8017 CLINTON STREET IN
GRAND DETOUR TOWNSHIP

WHEREAS, John P. & Diane L. Sanders, 8062 S. IL Route 2, Dixon, IL and Randall C. Hawn, 8017 Clinton St., Dixon, IL have filed a petition for a Map Amendment (Petition No. 3-15AM) to re-zone from B-1 Business District to R-2 Single Family Residence District on properties located at 8062 S. IL Route 2, 8044 S. IL Route 2 and 8017 Clinton Street in Grand Detour Township, and legally described as shown in Exhibit "A" attached hereto; and

WHEREAS, following due and proper notice by publication in the Ogle County Life at least fifteen (15) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least fifteen (15) days prior thereto, the Ogle County Zoning Board of Appeals conducted a public hearing on May 28, 2015 at which the petitioners presented evidence, testimony, and exhibits in support of the requested Map Amendment, and no members of the public spoke in support of or in opposition to the petition; and

WHEREAS, the Zoning Board of Appeals, having considered the evidence, testimony and exhibits presented has made its findings of fact and recommended that the requested Map Amendment be approved as set forth in the Findings of Fact and Recommendation of the Ogle County Zoning Board of Appeals dated May 28, 2015, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the Ogle County Board has reviewed the testimony and exhibits presented at the public hearing and has considered the Findings of Fact and recommendation of the Zoning Board of Appeals, and has forwarded a recommendation to the Ogle County Board that the requested Map Amendment be approved; and

WHEREAS, the Ogle County Board has considered the findings of fact and recommendation of the Zoning Board of Appeals and the recommendation of the Planning and Zoning Committee, and has determined that granting the petition for Map Amendment would be consistent with the requirements established by Section 16-9-7G of the *Ogle County Amendatory Zoning Ordinance*;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF OGLE COUNTY, ILLINOIS, as follows:


SECTION ONE: The report of the Ogle County Zoning Board of Appeals, Exhibit "B" attached hereto, is hereby accepted and the findings set forth therein are hereby adopted as the findings of fact and conclusions of the Ogle County Board.

SECTION TWO: Based on the findings of fact as set forth above, the petition of John P. & Diane L. Sanders, 8062 S. IL Route 2, Dixon, IL and Randall C. Hawn, 8017 Clinton St., Dixon, IL for a Map Amendment (Petition No. 3-15AM) to re-zone from B-1 Business District to R-2 Single Family Residence District on properties located at 8062 S. IL Route 2, 8044 S. IL Route 2 and 8017 Clinton Street in Grand Detour Township, and legally described as shown in Exhibit "A" attached hereto, is hereby approved, and the Ogle County Zoning Map shall be amended to reflect said zone change.

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of Ogle County, Illinois and attestation by the Ogle County Clerk.


SECTION FOUR: Failure of the owners of other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 16-9-10 of the *Ogle County Amendatory Zoning Ordinance*.

PASSED BY THE COUNTY BOARD THIS 19TH DAY OF JUNE 2015 A.D.



Kim P. Gouker, Chairman of the Ogle County Board

ATTEST:



Rebecca Huntley, Ogle County Clerk and
Ex Officio Clerk of the Ogle County Board

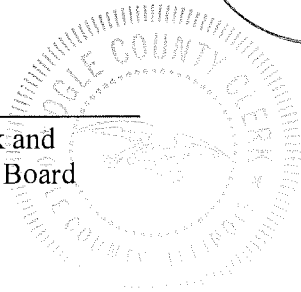


EXHIBIT "A"
LEGAL DESCRIPTION

Lots 1 and 2 in Block 3 of the unincorporated village of Grand Detour, except that part taken for public road/highway purposes; Lots 3, 4 and the northerly 13 feet of Lot 5 in Block 3 of the unincorporated village of Grand Detour, except that part taken for public road/highway purposes; and Lots 11 and 12 in Block 3 of the unincorporated village of Grand Detour; all located in part of Section 13, Township 22 North, Range 9 East of the 4th P.M., situated in the Township of Grand Detour, County of Ogle and State of Illinois.

Property Identification Numbers (PIN): 21-13-132-006; 21-13-132-007; 21-13-132-001
Common Location: 8062 S. IL Route 2; 8044 S. IL Route 2; and 8017 Clinton Street

EXHIBIT "B"

**FINDINGS OF FACT AND RECOMMENDATION
OF THE ZONING BOARD OF APPEALS**

Ogle County Zoning Board of Appeals

911 W. Pines Road
Oregon, IL 61061
815.732.1190
Fax: 815.732.3709

FINDINGS OF FACT AND RECOMMENDATION OF THE OGLE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Ogle County Zoning Board of Appeals concerning an application of John P. & Diane L. Sanders, 8062 S. IL Route 2, Dixon, IL and Randall C. Hawn, 8017 Clinton St., Dixon, IL in case #3-15AM. The applicants are requesting a map amendment to change the zoning classification of part of Parcel Identification Nos. 21-13-132-006, 21-13-132-007 and 21-13-132-001 from B-1 Business District to R-2 Single Family Residence District. Said parcels are described as Lots 1, 2, 3, 4, 11, 12 and the northerly 13 feet of Lot 5 in Block 3 of the unincorporated village of Grand Detour, except that part taken for public road/highway purposes, located in part of Section 13, Township 22 North, Range 9 East of the 4th P.M., Ogle County, Illinois. The sites are located in Grand Detour Township at 8062 S. IL Route 2; 8044 S. IL Route 2; and 8017 Clinton Street.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on May 28, 2015 in the County Board Room, 3rd Floor, Ogle County Courthouse, Oregon, Illinois and hereby reports its findings of fact and recommendation(s) as follows:

SITE INFORMATION: See Staff Report (attached herewith).

ANALYSIS OF SIX STANDARDS: After considering all the evidence and testimony presented at the public hearing, this Board makes the following analysis of the six standards listed in Section 9.07(G) (Standards for Map Amendments) of the *Ogle County Amendatory Zoning Ordinance* that must all be found in the affirmative prior to recommending granting of the petition.

1. That the proposed amendment will allow development that is compatible with existing uses and zoning of nearby property. **Rezoning of the site to R-2 to allow continued residential use of the site is compatible with the existing uses and zoning of nearby property, as the site is adjoined by residential uses and is located in a predominately residential area. Standard met.**
2. That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property (including, but not necessarily limited to, schools, police and fire protection, roads and highways, water supply and sewage disposal), while maintaining adequate public facilities and levels of service to existing development. **Continued residential use of the site will not create a burden on the County of Ogle and other public service providers, as no change in the intensity of use is proposed. Standard met.**
3. That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment, including air, noise, stormwater management, wildlife and natural resources. **No adverse impacts or impact on the environment will result from the proposed map amendment, as no change in the use of the property will occur. Standard met.**
4. That the subject property is suitable for the proposed zoning classification. **The site is suitable for the R-2 zoning district, as it is currently, and has been used for single-family residential purposes. Standard met.**

5. That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification. **The trend of development in the general area is of existing and established residential uses. The proposed zoning classification of R-2 Single Family Residence District is consistent with this trend. Standard met.**

6. That the proposed amendment is consistent with the public interest and not solely for the interest of the applicant, giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division 1 therein, the Land Evaluation and Site Assessment (LESA) findings (if applicable), and the recommendation(s) of the Ogle County Regional Planning Commission with respect to the *Ogle County Amendatory Comprehensive Plan*. **The proposed amendment is consistent with the public interest and not solely for the interest of the applicant, as it will make an existing and established use consistent with the Zoning Ordinance and surrounding uses; the proposed amendment is also consistent with the purpose and intent of the Amendatory Zoning Ordinance. The Zoning Board of Appeals has given due consideration that the Regional Planning Commission has recommended approval. Standard met.**

RECOMMENDATION: We find that the proposed map amendment requested meets all the standards for recommending granting as found in Section 16-9-7G of the *Ogle County Amendatory Zoning Ordinance* and that such request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the zoning district classification of the property described above be changed from B-1 Business District to R-2 Single Family Residence District.

ROLL CALL VOTE: The roll call vote was 4 members for the motion to recommend granting, 0 opposed.

Respectfully submitted this 28th day of May 2015 by the Ogle County Zoning Board of Appeals.

**Randy Ocken, Chairman
Maynard Stivers
Cody Considine
James Reed**

Randy Ocken, Chairman

ATTEST:



Michael Reibel, Secretary

O-2015-0602

Ogle County Retail Tobacco Licensing Ordinance

Adoption by Reference:

In addition to those provisions set forth in this code, this division shall interpret and enforce in accordance with provisions set forth in the following statutes, rules and regulations of the state of Illinois and subsequent amendments and revisions thereto, which publications are incorporated herein and adopted as they apply to commercial and public facilities.

- (1) Cigarette Tax Act (35 ILCS 130)
- (2) Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act (720 ILCS 675)
- (3) Display of Tobacco Products Act (720 ILCS 677)
- (4) Prevention of Cigarette Sales to Minors Act (720 ILCS 678)
- (5) Smokeless Tobacco Limitation Act (720 ILCS 680)
- (6) Tobacco Accessories and Smoking Herbs Control Act (720 ILCS 685)
Revisions to state code and others as they apply

Section:

License Required
License Application
License Fee and Enforcement
Compliance Enforcement
Sales to Persons Under Minimum Age Established by State Law Prohibited
Minimum Age for Persons Selling Tobacco
Signs
Purchase by Minors Prohibited
Possession by Minors Prohibited
Certain Free Distributions Prohibited
Other Sales Prohibited
Vending Machines
Responsibility for Agents and Employees
Penalties
Suspension; Revocation of License; Fines; Costs
Use of Premises after Revocation
Ineligibility
Severability

DEFINITIONS.

As used in this article, the following underlined terms shall have the meaning ascribed to each such term as set forth below:

Electronic Smoking Device: Any electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. "Electronic Smoking Device" includes any such electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic Smoking Device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of a disease.

Electronic Smoking Device Paraphernalia: Any cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other item specifically designed for the preparation, charging, or use of Electronic Smoking Devices.

Health Department: Refers to Ogle County Health Department, and any agency or Person designated by the Health Department to enforce or administer the provisions of this article.

Licensee: Any person, as defined below, obtaining a tobacco seller's license under this article.

Person: Any natural person, company, corporation, firm, partnership, organization, or other legal entity.

Smoking Paraphernalia: Refers to any Tobacco Paraphernalia, Electronic Smoking Devices, and Electronic Smoking Devices Paraphernalia.

Tobacco Paraphernalia: Refers to any cigarette papers or wrappers, pipes, cigarette rolling machines, or any other item designed for the consumption or preparation of Tobacco Products.

Tobacco Products: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco, or contains synthetically produced nicotine and is intended for human consumption. "Tobacco Products" does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

Tobacco Retailer: Any Person who sells, offers, for sale, or does or offers to exchange any form of consideration, tobacco, Tobacco Products or Smoking Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Smoking Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

Vending Machine: Any mechanical, electric or electronic, self-service device, which must be housed indoors and, upon insertion of money, tokens, or any other form of payment, dispenses tobacco

LICENSE REQUIRED

It shall be unlawful for any Person to act as a Tobacco Retailer in Ogle County without first obtaining a valid Tobacco Retailer's license pursuant to this article for each location at which that activity is to occur.

Such a license shall be in addition to any other license required by County or state law.

LICENSE APPLICATION

- A. Application for a Tobacco Retailer's license shall be made in writing on a form provided by the Health Department, signed by the applicant (as owner or legal representative) and verified by oath.
- B. Each application must be accompanied by a nonrefundable filing fee determined on an annual basis by the Board of Health.
- C. Each applicant shall supply the following information as part of the application:
 - 1. Date.
 - 2. Name of business
 - 3. Address of business
 - 4. Permanent parcel number
 - 5. Written proof that the individual is at least eighteen (18) years of age.
 - 6. The applicant's height, weight, color of eyes and hair.
 - 7. The applicant's tax identification number.

All application for renewal of license shall be made on or before thirty (30) days prior to expiration thereof. Failure to make timely application shall cause the license to not renew. The license period shall be October 1 to September 30.

LICENSE FEE AND ENFORCEMENT

An annual license fee and renewal fee payable to the Health Department shall be charged to obtain a license and act as a Tobacco Retailer in Ogle County. All moneys collected shall be deposited in the Health Department's general fund.

A separate license must be obtained for each point of sale maintained by the seller within the County. Point of sale means a store, stand, vending machine or other place of business maintained by the seller from which Tobacco Products are made available. Point of sale does not include separate cash registers, service counters or vending machines within the same store or at the same location.

Each Tobacco Retailer license shall be prominently displayed in a publicly visible location at the licensed location.

COMPLIANCE ENFORCEMENT

The Health Department, or any agency or Person designated by the Health Department, shall be required to ensure that each retail vendor for Tobacco Products is inspected for compliance. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to hinder compliance inspection in any manner.

The Health Department, or any agency or Person designated by the Health Department, shall conduct Tobacco Product compliance operations pursuant to the policy and standards adopted and amended by the Health Department.

The Health Department is to report to the Ogle County Board of Health any violations of this article by a license holder.

It shall not be considered a violation of this article for the Health Department, or any agency or Person designated by the Health Department, to use Persons under the minimum age established by state law to purchase or attempt to purchase Tobacco Products for the purpose of monitoring compliance with this section, if those underage persons are supervised by personnel of the Health Department or designated agency and the consent of a parent or guardian has been obtained (720 ILCS 675/1.e).

SALES TO PERSONS UNDER MINIMUM AGE ESTABLISHED BY STATE LAW PROHIBITED

- A. It shall be unlawful for any Person, including any licensee, to sell, offer for sale, buy for, give away, or to deliver Tobacco Products or Smoking Paraphernalia to any Person under the minimum age established by state law (720 ILCS 675/1).
- B. It shall be an affirmative defense that the seller of a Tobacco Product or Smoking Paraphernalia, to a person under the minimum age established by state law for purchasing Tobacco Products, had requested and examined government issued photographic identification from such Person establishing that Person's age to be at least the minimum age established by state law prior to selling that Person Tobacco Products. The failure of the seller to request government issued photographic identification prior to the sale of a Tobacco Product or Smoking Paraphernalia to the person under the minimum age established by state law shall be construed against the seller and form a conclusive basis for the seller's violation of this article.

MINIMUM AGE FOR PERSONS SELLING TOBACCO

- A. It shall be unlawful for any Person, including any licensee, to sell, offer for sale, buy for, give away or deliver Tobacco Products or Smoking Paraphernalia to any Person younger than the minimum age established by state law for purchase or possession of Tobacco Products (720 ILCS 675/1).
- B. No person engaged in Tobacco Retailing shall sell or transfer a Tobacco Product or Smoking Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the Tobacco Product or Smoking Paraphernalia.

SIGNS

Signs informing the public of the age restrictions provided herein shall be posted by every licensee at or near every display of Tobacco Products or Smoking Paraphernalia and on or upon every Vending Machine which offers Tobacco Products for sale.

PURCHASE BY MINORS PROHIBITED

It shall be unlawful for any Person under the minimum age established by state law to purchase Tobacco Products or Smoking Paraphernalia, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing Tobacco Products or Smoking Paraphernalia. Any violation of this section shall be prosecuted by the state's attorney's office as an ordinance violation (720 ILCS 675/1.a).

POSSESSION BY MINORS PROHIBITED

It shall be unlawful for any Person under the minimum age established by state law to possess or use Tobacco Products or Smoking Paraphernalia. Any violation of this section shall be prosecuted by the state's attorney's office as an ordinance violation (720 ILCS 675/1.a-7).

CERTAIN FREE DISTRIBUTIONS PROHIBITED

It shall be unlawful for any licensee or any Person in the business of selling or otherwise distributing, promoting, or advertising Tobacco Products, or any employee or agent of any such licensee or Person, in the course of such licensee's or Person's business, to distribute, give away, or deliver Tobacco Products or Smoking Paraphernalia free of charge to any Person in any portion of the County (720 ILCS 675/1.a-8).

OTHER SALES PROHIBITED

It shall be unlawful for any Person, including any licensee, to sell, offer for sale, give away, or deliver Tobacco Products or Smoking Paraphernalia other than In the original manufacturer's packaging, sealed and with the required health warning. This subsection does not apply to cigars. Single sales of cigarettes are expressly prohibited (720 ILCS 675/1.d).

VENDING MACHINES

- A. It shall be unlawful for any licensee to sell or offer for sale, give away, deliver, or to keep with the intention of selling, giving away or delivering tobacco products by use of a Vending Machine, unless such Vending Machine is equipped with a manual, electric, or electronic locking device controlled by the licensee so as to prevent its operation by Persons under the minimum age established by state law.
- B. Any premises where access by Persons under the minimum age established by state law is prohibited by law, or premises where the public is generally not permitted and where Vending

No action taken - Referred back to HEW Committee

Machines are strictly for the use of employees of business located at such premises, shall be exempt from this requirement (720 ILCS 675/1.b).

RESPONSIBILITY FOR AGENTS AND EMPLOYEES

Every act or omission of whatsoever nature, constituting a violation of any of the provisions by any officer, director, manager, or other agent or employee of any license shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

PENALTIES

Any Person found guilty of a violation shall be fined as follows:

Section Violated	Fine
LICENSE APPLICATION	\$500.00
SALES TO PERSONS UNDER THE MINIMUM AGE ESTABLISHED BY STATE LAW (720 ILCS 675/2)	
First Offense	\$200.00
Second Offense	\$400.00
Third Offense	\$600.00
SIGNS	\$50.00
PURCHASE BY MINORS (720 ILCS 675/2)	
First Offense	\$25.00
Second Offense	\$50.00
Third or Subsequent Offense	\$100.00
POSSESSION BY MINORS (720 ILCS 675/2)	
First Offense	\$50.00
Second Offense	\$75.00
Third or Subsequent Offense	\$200.00

CERTAIN FREE DISTRIBUTIONS (720 ILCS 675/2)	
First Offense	\$200.00
Second Offense	\$400.00
Third or Subsequent Offense	\$600.00
OTHER SALES PROHIBITED (720 ILCS 675/2)	\$500.00
VENDING MACHINES (720 ILCS 675/2)	\$200.00

SUSPENSION; REVOCATION OF LICENSE; FINES; COSTS

- A. The Chairman of the County Board of Ogle County, State of Illinois, shall make all determinations with respect to revocation or suspension of any Tobacco Retailer’s license. The chairman of the County Board may designate a Person or Persons to assist in the performance of these duties. No such license shall be so revoked or suspended and no licensee shall be administratively fined without an administrative hearing held by the chairman of the County Board or the appointed designee. The licensee shall receive written notice by certified mail or personal service from the notice by certified mail or personal service from the chairman of the County Board at least seven (7) days prior to the hearing so that said licensee may appear and defend against the charges or admit to said charges in writing and waive a right to an administrative meeting. Such admission and waiver must be in writing and submitted to the chairman of the County Board or the appointed designee.
- B. The chairman or appointed designee may levy a fine on the licensee. The fine imposed shall be at least five hundred dollars (\$500.00) for each violation. Each day on which a violation continues shall constitute a separate violation.
- C. Upon a determination made by the chairman of the County Board or appointed designee that the licensee has violated any provisions of this chapter for a first time, the chairman may levy a fine on the licensee. The fine imposed shall be at least five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) for each violation. Each day on which a violation continues shall constitute a separate violation.
- D. For a second violation of this article occurring after conviction of a first and within a twelve (12) month period, the chairman shall suspend the license of the violator for up to six (6) months. For a third violation occurring after the second and within twelve (12) months, the chairman shall suspend the license of the violator for at least six (6) months nor more than one (1) year.
- E. The chairman of the County Board or appointed designee may designate an administrative hearing officer to conduct hearings on alleged violations and to conduct revocation/suspension hearings.
- F. The chairman of the County Board or appointed designee shall within seven (7) days after such hearing, if he determines after such hearing that the license should be revoked or suspended, or that the licensee should be fined, state the reason for such determination in a written order and

either the amount of the fine, the period of suspension or that the license has been revoked and serve a copy of such order within seven (7) days upon the licensee.

- G. Any licensee determined by the chairman or appointed designee to have violated any of the provisions of this article shall pay to the County the costs of the hearing on such violation. The chairman or appointed designee shall determine the costs incurred by the County for said hearing, including, but not limited to: court reporter fees, the costs of transcripts or records, attorney fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the County.
- H. The licensee shall pay said costs to the County within thirty (30) days of notification of the costs by the chairman or appointed designee. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter and may be cause for license suspension, revocation, or the levy of a fine.

USE OF PREMISES AFTER REVOCATION.

When any license shall have been revoked for any cause, no license shall be granted to said licensee for the period of at least one (1) year thereafter for the conduct of the business of selling tobacco products.

INELIGIBILITY

Any Person found guilty of violating this article shall be ineligible to apply for a Tobacco Retailer's license under this article for at least one (1) year following the date of conviction.

SEVERABILITY.

The articles, provisions, and sections of this article shall be deemed separable and the invalidity of any portion of this article shall not affect the validity of any article, provision or section of the remainder.

All ordinances, resolutions, motions, or parts thereof, in conflict with the provisions of this article are, to the extent of such conflict, hereby repealed.

DATE OF EFFECT:

The Division shall be in full force and effect from and after July 1, 2015. At that time, all resolutions and parts in conflict with this Division are hereby repealed.

Passed and adopted this 16th day of June, 2015 by the Ogle County Board

Attest: _____
Ogle County Clerk

Ogle County Board Chairman

O-2015-0603

Ogle County Smoke-Free Ordinance

Definitions.

The following words and phrases shall apply unless the context clearly indicates or requires a different meaning.

Bar. An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than ten percent of its gross revenue from the sale of food consumed on the premises. Bar includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

Department. The department of public health.

Electronic Smoking Device. An electronic device which can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic Smoking Device" includes any such electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

Employee: A person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

Employer. A person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area. All space in any structure, or building, that is enclosed on all sides by any combination of walls, half-walls, windows, or doorways extending from the floor to ceiling.

Enclosed or partially enclosed sports arena. Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

Gaming equipment or supplies. Gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

Gaming facility. An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

Healthcare facility. An office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. Healthcare facility includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

Place of employment. Any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in [section 38-298](#) of this chapter, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a "place of employment.", nor are enclosed laboratories, not open to the public, in an accredited university or government facility where the activity of smoking is exclusively conducted for the purpose of medical or scientific health-related research. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Private club. A not-for-profit association that (1) has been in active and continuous existence for at least three years prior to January 1, 2005, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. [501](#).

Private residence. The part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

Public place. That portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in [section 38-298](#) of this chapter, of 15 feet from entrances exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A public place includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert

halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased or operated by the state or state subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

Restaurant. (1) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (2) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the restaurant.

Retail tobacco store. A retail establishment that derives more than 80 percent of its gross revenue from the sale of Tobacco Products or Tobacco Paraphernalia. "Retail tobacco store" includes an enclosed workplace that manufactures, imports, or distributes tobacco or tobacco products, when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product for the eventual retail sale of that tobacco or tobacco product, tobacco is heated, burned, or that tobacco or tobacco product, tobacco is heated, burned, or the involved business entity: (1) maintains a specially designated area or areas within the workplace for the purpose of the heating, burning, smoking, or lighting activities, and does not create a facility that permits smoking throughout; (2) satisfies the 80 percent requirement related to gross sales; and (3) delivers tobacco products to consumers, retail establishments, or other wholesale establishments as part of its business. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Smoke or smoking. Inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, Electronic Smoking Device, or any plant product intended for human inhalation.

State agency. All officers, boards, commissions and agencies created by the Constitution, whether in the executive, legislative or judicial branch, but other than the circuit court; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the state; and administrative units or corporate outgrowths of the state government which are created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above and as may be created by executive order of the governor.

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

Tobacco Product. (1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (2) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah. (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" 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 other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

Units of local government. Counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts.

Sec. 38-298. - Smoking in public places, places of employment, and governmental vehicles prohibited.

- Smoking in public places, places of employment, and governmental vehicles is strictly prohibited. No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State of Illinois or a political subdivision of the state. An owner shall reasonably assure that smoking is prohibited in indoor public places and workplaces unless specifically exempted by [section 38-302](#) of this chapter.

Sec. 38-299. - Posting of signs; removal of ashtrays.

(a) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control that place.

(b) Each public place and place of employment where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager, or other person having control of this area.

Sec. 38-300. - Smoking prohibited in student dormitories.

Notwithstanding any other provision of this chapter, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

Sec. 38-301. - Designation of other nonsmoking areas.

Notwithstanding any other provision of this chapter, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in subsections [38-299](#)(a) and (b) of this chapter.

Sec. 38-302. - Exemptions.

Notwithstanding any other provision of this chapter, smoking is allowed in the following areas:

- (1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.
- (2) Retail tobacco stores, as defined in [section 38-297](#), in operation prior to January 1, 2008, being effective date of this chapter. The retail tobacco store shall annually file with the Department by January 31 an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of this chapter may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
- (3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
- (4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.
- (5) Enclosed laboratories that are excluded from the definition of "place of employment" in [Section 10](#) of this Act. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.
- (6) Common smoking rooms in long-term care facilities operated under the authority of the Illinois Department of Veterans' Affairs that are accessible only to residents who are smokers and have requested in writing to have access to the common smoking room where smoking is permitted and the smoke shall not infiltrate other areas of the long-term care facility. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative

Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Sec. 38-303. - Enforcement; complaints.

(a) The department, state-certified local public health departments, and local law enforcement agencies shall enforce the provisions of this chapter through the issuance of citations and may assess fines pursuant to section 38-308 of this chapter.

The citations issued pursuant to this Act shall conspicuously include the following:

- (1) The name of the offense and its statutory reference
- (2) The nature and elements of the violation;
- (3) The date and location of the violation;
- (4) The name of the enforcing agency;
- (5) The name of the violator;
- (6) The amount of the imposed fine and the location where the violator can pay the fine without objection;
- (7) The address and phone number of the enforcing agency where the violator can request a hearing before the Department to contest the imposition of the fine imposed by the citation under the rules and procedures of the Administrative Procedure Act;
- (8) The time period in which to pay the fine or to request a hearing to contest the imposition of the fine imposed by the citation; and
- (9) The verified signature of the person issuing the citation.

One copy of the citation shall be provided to the violator, one copy shall be retained by the enforcing agency, and one copy shall be provided to the entity otherwise authorized by the enforcing agency to receive fines on their behalf.

(b) Any person may register a complaint with the department, a state-certified local public health department, or a local law enforcement agency for a violation of this chapter. The department shall establish a telephone number that a person may call to register a complaint under this subsection.

The department shall afford a violator the opportunity to pay the fine without objection or to contest the citation in accordance with the Illinois Administrative Procedure Act, except that in case of a conflict between the Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control.

Upon receipt of a request for hearing to contest the imposition of a fine imposed by a citation, the enforcing agency shall immediately forward a copy of the citation and notice of the request

for hearing to the department for initiation of a hearing conducted in accordance with the Illinois Administrative Procedure Act and the rules established thereto by the department applicable to contested cases, except that in case of a conflict between the Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control. Parties to the hearing shall be the enforcing agency and the violator. The department shall notify the violator in writing of the time, place, and location of the hearing. The hearing shall be conducted at the nearest regional office of the department, or in a location contracted by the department in the county where the citation was issued.

Fines imposed under this Act may be collected in accordance with all methods otherwise available to the enforcing agency or the department, except that there shall be no collection efforts during the pendency of the hearing before the department.

Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Sec. 38-304. - Violations.

(a) A person, corporation, partnership, association or other entity who violates [section 38-298](#) of this chapter shall be fined pursuant to this section. Each day that a violation occurs is a separate violation.

(b) A person who smokes in an area where smoking is prohibited under [section 38-298](#) of this chapter shall be fined in an amount that is \$100.00 for a first offense and \$250.00 for each subsequent offense. A person who owns, operates, or otherwise controls a public place of employment that violates [section 38-298](#) of this chapter shall be fined (i) \$250.00 for the first violation, (ii) \$500.00 for the second violation within one year after the first violation, and (iii) \$2,500.00 for each additional violation within one year after the first violation.

(c) A fine imposed under this section shall be allocated as follows:

(1) One-half of the fine shall be distributed to the department; and

(2) One-half of the fine shall be distributed to the enforcing agency.

Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Sec. 38-305. - Injunctions.

In addition to any other sanction or remedy, the department, a state-certified local public health department, local law enforcement agency, or any individual personally affected by repeated violations may institute in a circuit court, an action to enjoin violations of this chapter.

Sec. 38-306. - Discrimination prohibited.

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this chapter.

Sec. 38-307. - Severability.

If any provision, clause or paragraph of this chapter shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this chapter.

Sec. 38-308. - Entrances, exits, windows, and ventilation intakes.

Smoking is prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this chapter so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

DATE OF EFFECT:

The Division shall be in full force and effect from and after July 1, 2015. At that time, all resolutions and parts in conflict with this Division are hereby repealed.

Passed and adopted this 16th day of June, 2015 by the Ogle County Board

Attest: Rebecca Huntley
Ogle County Clerk

[Signature]
Ogle County Board Chairman

