

FAQ: Local Licensing of Retail Tobacco Sales

1) What is being discussed?

All stores that sell tobacco products and/or smoking paraphernalia be required to obtain a license from the City of Ithaca authorizing them to sell these products.

2) Aren't tobacco retailers already licensed?

Currently, retailers must register with the NYS Department of Tax & Finance and obtain a certification to authorize the collection of tobacco excise taxes.

3) What is the justification for requiring a tobacco retailer license from the City?

Tobacco use remains the leading cause of preventable death in the state, nation, and world. Billions of state and local tax dollars are spent on treating tobacco-caused disease, disability, and lost productivity.

Nearly 90% of all adults who smoke began smoking by the age of 18; ninety-nine percent begin by the age of 26. The most recent Surgeon General's Report (March 2012) clearly identifies tobacco marketing at the point-of-sale (i.e., in stores) as a primary cause of youth tobacco use.

Thus, the City has an interest in reducing youth exposure to tobacco in stores.

4) How does licensing link to the City's interest in reducing youth smoking and tobacco use?

A licensing system for retailers selling tobacco products or smoking paraphernaliaⁱ may be used to ensure that all youth-related tobacco laws are followed.

For example, the New York State *Adolescent Tobacco Use Prevention Act (ATUPA)* prohibits the sale of tobacco products or smoking paraphernalia to individuals younger than age 18.ⁱⁱ A local license can be a measure for enforcing compliance with that law.

Moreover, the City could utilize a licensing system to include additional tobacco control measures that promote reductions in youth tobacco use (e.g., to address the location of retailers).

5) Are local governments allowed to require another license for tobacco sales?

Yes. In fact, a model ordinance has been drafted specifically for jurisdictions within NYS, and this model could be amended to accomplish goals identified by the City of Ithaca.

6) Where else is this done?

In NYS, Dutchess County and New York City require their own license to sell tobacco products, in addition to the state Tax & Finance certification.

7) What products would be involved?

The model ordinance cited above considers the licensing of retailers selling any tobacco products, but could be changed to include all products addressed by ATUPA (e.g., smoking paraphernalia like water pipes).

- 8) How would this relate to “Tobacco shops” that sell roll-your-own (RYO) products?**
Under the existing model, tobacco shops would be required to obtain a City license to sell tobacco products.
- 9) How would this relate to stores that sell water pipes and other “head shop” items?**
Any store that sells pipes, water pipes, hookahs, glassware designed for smoking tobacco, or other smoking paraphernalia could be required to have a valid tobacco retail license issued by the City.
- 10) How would this relate to convenience stores that sell cigarettes and other tobacco products?**
Under the model, the sale of cigarettes or other tobacco products within the City of Ithaca would require a valid City license.
- 11) Would the convenience store that only sells cigarettes have the same license as the shop that sells paraphernalia, but not tobacco products?**
It depends on how the City decides to proceed. A licensing system is flexible and could be structured to include all products covered under the state ATUPA law, or there could be two licenses established — one for tobacco sales and one for smoking paraphernalia sales.
- 12) How many current state-certified tobacco retailers are located in the City of Ithaca?**
By the most recently available list, 29.
- 13) How many are located in the primary downtown shopping area (within the BID)?**
By the most recent list, 7
- 14) How would a business owner obtain a license?**
Under the existing model, a business owner could apply for a license at the City Clerk’s office. The model also suggests that licenses would not be transferable and could not be sold or transferred as part of the sale of a business.
- 15) How much would a license cost?**
The cost of a license could be determined based on a full accounting for the cost of administering and enforcing the licensing program.
- 16) How often would a license need to be renewed?**
Annually.
- 17) Would there be any restrictions on licensed stores, such as business hours or who could enter the store?**
As stated above, models for establishing a license requirement are flexible and may address retail sales in many ways. For example, a license could be drafted such that admission to stores that sell smoking paraphernalia would be restricted to individuals aged 18 or older. (Currently, entry to tobacco stores as identified under the state Expanded Clean Indoor Air Act is restricted to age 18 and over.ⁱⁱⁱ)
- 18) Would there be any restrictions regarding who could get a license?**
The City could determine the manner in which it wants to license retailers. For example, a license could be restricted to those retailers located a minimum distance

from schools, or a minimum distance from another licensed retailer. Additionally, a cap could be set on the number of licenses that would be issued.

19) Who would enforce the licensing ordinance, to make sure a store had a license?

The Tompkins County Health Department, Environmental Health Division (EH) currently inspects all state certified tobacco retailers twice a year to ensure compliance with ATUPA and other laws. It is possible that a formal agreement could be reached with EH to monitor City licensing requirements at the same time.

20) Who would make sure the license is up-to-date?

The City Clerk's office could track license renewals based on annual expiration dates, or consistent with other city licensing requirements.

21) Isn't this just restricting commerce and legitimate business? How does requiring a license do anything to keep kids from smoking?

The license could be used as an enforcement mechanism by revoking or suspending the license of any retailer that violates the conditions of the license. Such conditions might be simply to comply with existing tobacco laws (such as ATUPA) or could include additional conditions, such as keeping tobacco or smoking paraphernalia out of sight of minors.

Moreover, there is a vast amount of evidence that demonstrates the location and density of tobacco retailers significantly affects the chance youth will begin to smoke. A licensing system could be used to address this public health concern, and ensure kids have less exposure to tobacco products and tobacco marketing in stores.

22) Why is Tobacco Free Tompkins involved in this issue?

Tobacco Free Tompkins (T-Free), a program of the Tompkins County Health Department, is a Community Partnership funded by the New York Tobacco Control Program. T-Free engages in community education and advocacy dedicated to keep the air smoke-free, support smokers who want to quit, and help teens beat the tobacco trap. The T-Free motto is, "we cannot afford another generation of tobacco addiction".

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i (c) "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco;

ii NYS Public Health Law §1399-cc specifies the following be posted at certified stores: "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW."ii

iii Section 1399-n, paragraph 7.