LICKING COUNTY
HEALTH DEPARTMENT
PROMOTING HEALTH WHERE YOU LIVE, WORK AND PLAY

ENDS Regulations

Contents

WHEREAS, the City of Heath contracts with the Licking County Board of Health to provide public health services within the city limits;

WHEREAS, it is illegal under federal law to market electronic nicotine delivery systems (ENDS) that have not obtained premarket authorization from the Federal Food and Drug Administration under section 910 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387 through 387u);

WHEREAS, the Licking County Health Department has recognized vaping as a public health concern within Licking County;

NOW, THEREFORE, BE IT RESOLVED that the Licking County Board of Health establishes the following regulations:

Section 100 – Definitions

(A) "Board" means Board of Health of the Licking County General Health District as established in pursuant to Section 3709.07 of the Ohio Revised Code.
(B) "Cartridge based electronic delivery systems" means a type of ENDS product that consists of, includes, or involves a cartridge or pod that holds liquid that is to be aerosolized through product use. For purposes of this definition, a cartridge or pod is any small, enclosed unit (sealed or unsealed) designed to fit within or operate as part of an electronic nicotine delivery system
(C) "Electronic nicotine delivery systems (or ENDS)" means devices, components, and/or parts that deliver aerosolized e-liquid when inhaled. For example, FDA considers vapes or vape pens, personal vaporizers, e-cigarettes, cigalikes, e-pens, e-hookahs, e-cigars, and e-pipes to be ENDS.
(D) "Facility" means a facility within the City of Heath that markets or sells any type of ENDS products.
"FDA" means the United States Food and Drug Administration.
(E) "Department" means the Licking County Health Department.
(F) "Health Commissioner" means the person occupying, in either a permanent or acting role, the office of the Licking County Health Commissioner in accordance with Section 3709.11 of the Ohio Revised Code.
(G) "Person" means any individual, partnership, company, firm, trust, corporation, governmental unit, department, bureau, agency, or other entity recognized by law.

Section 200 – Permits

(A) No person or facility shall market ENDS in the City of Heath unless they obtain a permit from the Board prior to marketing ENDS.
(B) Any person applying to obtain a permit to sell ENDS in the City of Health shall apply using an application provided by the Board.
(C) All permits shall be renewed annually no later than December 31.
(D) Any person or facility marketing ENDS prior to the enactment of this regulation shall obtain an initial permit no later than December 31, 2024.
(E) A permit shall not be issued to a person or facility with outstanding fees related to this regulation.
(F) Permits shall not be transferred to another person or facility.
(G) Permits shall be displayed in a conspicuous location at all times in the view of the general public.

Section 300 – Fees

(A) All fees subject to this regulation shall be enacted by the Board.
(B) Any person applying for a permit to sell ENDS products in the City of Heath shall pay a permit fee to the Department.
(C) If a permit is not renewed by the date specified in item (C) or (D) in Section 200 of this regulation, a 30% late fee shall be applied to the cost of the permit.
(D) Any ENDS facility in the City of Heath found to be selling ENDS that are not authorized by the FDA shall pay the Department a reinspection fee.
(E) If a reinspection fee is not paid by the date specified by the Department, a 30% late fee shall be applied to the cost of the reinspection fee.
(F) Any person or facility that has been issued a reinspection fee and a late fee for a reinspection fee that does not pay the entire fee within ten (10) days of the late fee being due for a reinspection fee, shall be subject to their permit being suspended in accordance with this regulation.

Section 400 – ENDS

(A) Any person or facility marketing ENDS in the City of Heath shall only sell ENDS that are authorized by the FDA. If a person or facility is found to be selling ENDS that are not authorized by the FDA they shall be subject to penalties levied pursuant to City of Heath Codified Ordinance 521.99.
(B) No person or facility shall distribute ENDS free of charge unless they obtain a permit in accordance with Section 200 of this regulation.

Section 500 – Inspections

(A) All ENDS facilities in the City of Heath shall be inspected at least annually by the Department. The annual inspection will be unannounced and not scheduled.
(B) Any ENDS facility in the City of Heath with an initial infraction of selling ENDS that are not authorized by the FDA, shall be issued a warning letter by the Department describing the violation and the necessary actions to gain compliance. The letter shall also specify the date the reinspection fee shall be paid.
(C) The Department may conduct up to 3 unannounced reinspections at an ENDS facility after a violation is identified, and a reinspection fee shall be paid to the Department for each reinspection conducted. All reinspections will be unannounced and not scheduled.

Section 600 – Enforcement

(A) Any person that sells ENDS in the City of Heath without obtaining a permit in accordance with Section 200 of this regulation shall be subject to penalties pursuant to City of Heath Codified Ordinance 521.99.
(B) The Department shall notify the City of Heath Chief of the Division of Building and Zoning Inspection regarding all violations identified under this regulation in writing.
(C) Any permit holder found to be selling ENDS that are not authorized by the FDA shall be subject to penalties and fines levied by the City of Heath pursuant to City of Heath Codified Ordinance 521.99.

(D) The Board may suspend or revoke a permit after determining a permit holder is in violation of this regulation.

(E) The Board shall provide a permit holder with written notice of the proposed suspension or revocation of a permit. The notice shall include a description of the procedure for appealing the proposed suspension or revocation. The permit holder may appeal the proposed suspension or revocation and shall provide written notice to the Board and the notice shall specify if a hearing is being requested. All appeals shall be conducted in accordance with Section 600(E) of this regulation. If a hearing is requested, the Board shall hold the hearing prior to suspending or revoking the permit. If a permit is suspended, the suspension remains in effect until the Board or Health Commissioner rescinds the suspension.

(F) A permit holder shall provide the Board with written notice of appeal of a proposed suspension or revocation of a permit within fifteen (15) days of receiving notice of the proposed action. The Board shall schedule a hearing no later than thirty (30) days after the notice of appeal is received.