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AN ORDINANCE AMENDING TITLE 7, CHAPTER 15 (TOBACCO)

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WHEREAS, the President and Board of Trustees of the Village of Orland Park find as follows:

- A. Alternative nicotine products, such as e-cigarettes, contain cancer causing chemicals such as formaldehyde.
- B. The flavors in alternative nicotine products contain the chemical diacetyl which is dangerous to humans when inhaled.
- C. According to the United States Food and Drug Administration, there is no evidence alternative nicotine products are safe and effective at helping smokers quit using tobacco products.
- D. All “alternative tobacco products” still contain nicotine which is harmful to health.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1:

The Orland Park Village Code be and hereby is amended by repealing Chapter 15 of Title 7 and replacing it with a new Chapter 15 reading in its entirety as follows:

CHAPTER 15
TOBACCO OR ALTERNATIVE NICOTINE PRODUCTS

SECTION:

7-15-1: Definitions

7-15-2: License Required

7-15-3: License Application

7-15-4: License Fee; Expiration

7-15-5: Prohibited Sales, Delivery-Signs:

7-15-6: Minimum Age to Sell Tobacco or Alternative Nicotine Products

7-15-7: Purchase By Minors Prohibited

7-15-8: Possession By Minors Prohibited

7-15-9: Proximity To Certain Institutions

7-15-10: Certain Free Distributions Prohibited

7-15-11: Vending Machines - Locking Devices

7-15-12: Responsibility for Agents and Employees

7-15-13: Suspension; Revocation of License; Fines, Costs

7-15-14: Use of Premises After Revocation:

7-15-15: Violation with Respect to Sale Without License

7-15-16: Violation with Respect to Possession or Purchase

7-15-1: DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

Alternative nicotine product , as defined in the Illinois Compiled Statutes, 720 ILCS 675/1.5, means “a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. ‘Alternative nicotine product’ excludes cigarettes, smokeless tobacco, or other tobacco products and any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.”

Tobacco products means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

Vending machine means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco or alternative nicotine products.

7-15-2: LICENSE REQUIRED:

Commencing January 1, 1996, and thereafter it shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering, tobacco or alternative nicotine products within the Village without having first obtained a tobacco dealer's license therefore pursuant to this Chapter.

Such license shall be in addition to any other license required by the Village.

7-15-3: LICENSE APPLICATION:

Application for the license required by this Chapter shall be made to the Village Clerk or his designee in writing on a form provided for that purpose.

If the applicant is an individual (sole proprietorship), the application shall contain the applicant's name, residence address and residential telephone number. If the applicant is a partnership or other non-corporate business entity, the application shall contain the name and residential address and residential telephone number of each partner, principal or member thereof. If the applicant is a corporation, the application shall contain the name, residential address and residential telephone number of each principal officer and the registered agent thereof. If the applicant is an unincorporated association, the application shall contain the name, residential address and residential telephone number of the spokesman, such as an officer or leader. Each application also shall contain 1) a designation of the type or kind of license desired, 2) the location or proposed location of the place of business, occupation or activity, 3) the fee, 4) the number of the certificate of registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable, and 5) such additional information as may be needed for the proper guidance of Village officials in the evaluation of such application, including a statement of whether the application is for a new license or a license renewal and whether the applicant has ever been

subject to suspension or revocation of a tobacco license in the Village. Upon verification of the information contained in the application, the license shall be issued as appropriate.

7-15-4: LICENSE FEE; EXPIRATION:

The license fee for a tobacco dealer's license shall be \$75.00. Each tobacco dealer's license shall expire on December 31 of each year. (Ord. 3892, 6-21-04)

7-15-5: PROHIBITED SALES, DELIVERY - SIGNS:

(a) It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco or alternative nicotine products to any person under the age of eighteen (18) years.

(b) Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco or alternative nicotine products and on or upon every vending machine which offers tobacco or alternative nicotine or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state: "THE SALE OF TOBACCO OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW."

(c) Every licensee or any officer, associate, member, representative, agent or employee of such licensee shall refuse to sell, deliver or give tobacco or alternative nicotine products to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 18 years.

"Adequate written evidence" shall be a document issued by a federal, state, county or municipal government or subdivision or agency thereof, including but not limited to a motor vehicle operator's license or an identification card issued to a member of the Armed Forces. (Ord. 3592, 1-21-02)

The text of such signs shall be in red letters on a white background, said letters to be at least one inch (1") high.

7-15-6: MINIMUM AGE TO SELL TOBACCO OR ALTERNATIVE NICOTINE PRODUCTS:

It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under eighteen (18) years of age to sell tobacco or alternative nicotine products in any licensed premises.

7-15-7: PURCHASE BY MINORS PROHIBITED:

It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco or alternative nicotine products, or to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco or alternative nicotine products.

7-15-8: POSSESSION BY MINORS PROHIBITED:

It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco or alternative nicotine products ; provided that the possession by a person under the age of eighteen

(18) years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

7-15-9: PROXIMITY TO CERTAIN INSTITUTIONS:

It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco or alternative nicotine products within one hundred feet (100') of any school, child care facility, library or other building used for education or recreational programs for persons under the age of eighteen (18) years.

7-15-10: 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 or alternative nicotine 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 or alternative nicotine products free of charge to any person on any right-of-way, park, playground or other property owned by the Village, any school district, or any public library.

7-15-11: VENDING MACHINES - LOCKING DEVICES:

(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 or alternative nicotine 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 age of eighteen (18) years, except that vending machines delivering tobacco or alternative nicotine products currently in use in Village establishments shall not be required to have locking devices installed if they are placed in a conspicuous location at which they can be monitored by adult employees of the establishment.

Each vending machine delivering tobacco or alternative nicotine products in use in the Village on April 5, 1997, shall, however, be equipped with a manual, electric or electronic locking device as described herein at such time as the machine is remodeled, upgraded or substantially changed or altered.

(b) Any premises where access by persons under the age of eighteen (18) years is prohibited by law, or premises where the public is generally not permitted or where vending machines are strictly for the use of employees of the business located at such premises, shall be exempt from the requirements of Section 11 (A), above.

7-15-12: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this Chapter by any officer, director, manager or other agent or employee of any licensee 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.

7-15-13: SUSPENSION; REVOCATION OF LICENSE; FINES, COSTS:

The Village Manager shall be charged with the administration of this Chapter. The Village Manager may suspend or revoke any license issued under the provisions of this Chapter, if he or

she determines that the licensee has violated any of the provisions of this Chapter. In lieu of suspension or revocation of a license, the Village Manager may instead levy a fine on the licensee. The fine imposed shall not exceed five hundred dollars (\$500) for each violation. Each day on which a violation continues shall constitute a separate violation.

However, no such license shall be suspended or revoked and no licensee shall be fined except after a public hearing by the Village Manager with a seven (7) day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provisions shall begin the day following delivery by certified mail or by personal service.

The Village Manager shall within seven (7) days after such hearing, if he or she determines after such hearing that a violation has occurred and 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 the seven (7) days upon the licensee.

Any licensee determined by the Village Manager to have violated any of the provisions of this Chapter shall pay to the Village the costs of the hearing before the Village Manager on such violation. The Village Manager shall determine the costs incurred by the Village for said hearing, including, but not limited to: court reporters' fees, the costs of transcripts or records, attorneys' fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the Village, or such lesser sum as the Village Manager may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs by the Village Manager. Failure to pay said costs within thirty (30) days of notification is a violation of this Chapter and may be cause for license suspension or revocation, or the levy of a fine, without the necessity of a further hearing.

7-15-14: USE OF PREMISES AFTER REVOCATION:

When any license shall have been revoked for any cause, no new license shall be granted to said licensee for a period of at least six (6) months thereafter for the conduct of the business of selling tobacco or alternative nicotine products as defined in Section 7-15-2 of this Chapter in the premises described in such revoked license.

7-15-15: VIOLATION WITH RESPECT TO SALE WITHOUT LICENSE:

Each violation with respect to the sale, giving away, delivering or keeping with the intention of selling, giving away or delivering tobacco or alternative nicotine products within the Village without first having obtained a tobacco dealer's license therefore as provided in this Chapter shall be punishable by a fine not to exceed seven hundred and fifty dollars (\$750). Each day on which a violation continues shall constitute a separate violation.

7-15-16: VIOLATION WITH RESPECT TO POSSESSION OR PURCHASE:

Each violation with respect to possession and/or purchase of tobacco or alternative nicotine products by a person under eighteen (18) years of age shall be punishable by a fine of \$50.00

and confiscation of the tobacco product or alternative nicotine products. (Ord. 2722, 4-5-95, amd. Ord. 3024, 7-8-97)

SECTION 2:

This Ordinance shall be effective upon its passage and publication in pamphlet form as provided by law.

SECTION 3:

The Village Clerk is hereby directed to publish this Ordinance in pamphlet form.