

VILLAGE OF VERNON HILLS

ORDINANCE 2017-084

AN ORDINANCE AMENDING THE VILLAGE OF VERNON HILLS CODE OF
ORDINANCES CHAPTER 10 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS
REGULATIONS, ARTICLE III TOBACCO SALES, DIVISION 1 – GENERALLY AND
DIVISION 2 - LICENSE

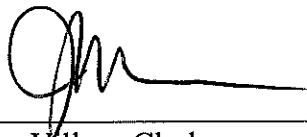
THE 5th DAY OF JULY 2017

Published in pamphlet form by the Authority of the
President and Board of Trustees of the Village of
Vernon Hills, Lake County, Illinois, this 11th Day of
July 2017

AFFIDAVIT OF SERVICE

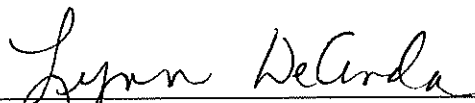
STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, JOHN M. KALMAR, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2017-084 - AN ORDINANCE AMENDING THE VILLAGE OF VERNON HILLS CODE OF ORDINANCES CHAPTER 10 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, ARTICLE III TOBACCO SALES, DIVISION 1 – GENERALLY AND DIVISION 2 – LICENSE TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM JULY 11, 2017 TO JULY 21, 2017.

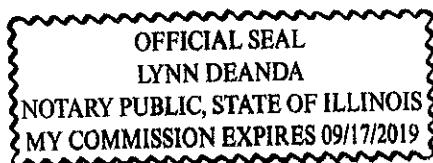


John M. Kalmar, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE
THIS 11th DAY OF JULY 2017



Notary Public



ORDINANCE NO. 2017-084

**AN ORDINANCE AMENDING THE VILLAGE OF
VERNON HILLS CODE OF ORDINANCES
CHAPTER 10 LICENSES, PERMITS AND
MISCELLANEOUS BUSINESS REGULATIONS,
ARTICLE III TOBACCO SALES, DIVISION 1 –
GENERALLY AND DIVISION 2 - LICENSE**

WHEREAS, the Village of Vernon Hills is a home-rule municipal corporation existing under the laws of the State of Illinois, and

WHEREAS, Chapter 10 of the Village Code regulates certain business activities including Tobacco Sales; and

WHEREAS, over the years, several new technologies have emerged regarding smoking and further research has been done about the hazards of smoking, especially among youths; and

WHEREAS, the Village seeks to amend the existing code to reflect the new technologies and to generally protect the public health safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I. That Chapter 10 Licenses, Permits and Miscellaneous Business Regulations, Article III, Divisions 1 and 2 of the Village of Vernon Hills Code of Ordinances are hereby deleted in their entirety and replaced with the text as set forth in Exhibit A hereto.

SECTION II. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications that are severable, the valid applications shall remain in effect.

SECTION III. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this ordinance.

SECTION IV. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law but in no event shall this ordinance be effective prior to August 1, 2017.

SECTION V. PUBLICATION. This ordinance shall be published in pamphlet for in the manner provided by law.

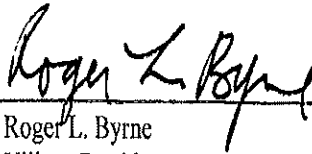
SECTION VI. ORDINANCE NUMBER. This ordinance shall be known as Ordinance Number 2017-084.

Adopted by roll call vote as follows:

AYES: 4 – Koch, Hebda, Marquardt, Schultz

NAYS: 0 - None

ABSENT AND NOT VOTING: 2 – Oppenheim, Takaoka

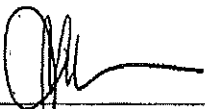


Roger L. Byrne
Village President

PASSED: 07/05/2017

APPROVED: 07/05/2017

PUBLISHED IN PAMPHLET FORM: 07/11/2017



John M. Kalmar
Village Manager/Clerk

Exhibit A

ARTICLE III. - TOBACCO SALES AND SALES OF SMOKELESS TOBACCO, E-CIGARETTES, OR ALTERNATIVE NICOTINE PRODUCTS

DIVISION 1. - GENERALLY

Sec. 10-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vending machine means a vending machine operated by the customer through the use of coin, slug, token or other like objects by which the customer by inserting the coin or token purchases a tobacco product, e-cigarette or alternative nicotine product from other than another person.

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

Alternative nicotine product 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.

E-cigarettes means a device that uses a liquid or digital system that may or may not include nicotine, including, but not limited to, vaporizers, vape pens, hookah pens, electronic cigarettes and electronic pipes. This definition also includes products necessary of the use of the product such as the liquid or cartridge meant to be used with such a device.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-67. - Purpose.

It is the policy of the village to prohibit the sale of tobacco products, e-cigarettes or alternative nicotine products and to prohibit anyone under the age of 21 from buying tobacco products, e-cigarettes or alternative nicotine products in any of its forms, to prohibit selling, giving or furnishing tobacco products, e-cigarettes or alternative nicotine products in any of its forms, to anyone under the age of 21 and providing penalties therefor. It is also the policy of the village to prevent the use of cigarette vending machines by any person under the age of 21. Furthermore, it is also the policy of the Village to prohibit the possession of tobacco, e-cigarettes and alternative nicotine products to anyone under the age of 18.

Sec. 10-68. - Inspection, enforcement.

It shall be the duty of the chief of police or his designee, and they are hereby authorized and empowered, from time to time, to inspect and examine all places where tobacco products, e-cigarettes or alternative nicotine products are licensed to be sold within the village, with the view of ascertaining whether the laws of the state, the provisions of this article and other ordinances of the village in relation to the sale of tobacco products, e-cigarettes or alternative nicotine products

are being complied with at such places. It shall be their duty to cause all such laws and ordinances to be enforced. It shall be the duty of all persons licensed to sell tobacco products, e-cigarettes or alternative nicotine products within the village, upon demand of the chief of police and/or his designee(s), to furnish to such person for his inspection, samples of all tobacco products, e-cigarettes or electronic nicotine products sold or offered for sale by them, which samples of tobacco products, e-cigarettes or alternative nicotine products shall be analyzed by or under the direction of the chief of police and/or his designee(s) and a record of such analysis shall be made and kept in their office for the inspection of the public.

Sec. 10-69. - Prohibited sales or delivery.

It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, e-cigarettes or alternative nicotine products to any person under the age of 21 years of age, including upon the written order of a parent or adult acting in loco parentis not present at the time of purchase.

Sec. 10-70. - Posting of signs.

Signs informing the public of the age restrictions provided for in this article shall be posted by every licensee at or near every display of tobacco products, e-cigarettes or alternative nicotine products and on or upon every vending machine which offers tobacco products, e-cigarettes or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

"THE SALE OF TOBACCO PRODUCTS E-CIGARETTES OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW"

Posted signs shall be plainly visible and shall measure at least 8½ inches in height by 11 inches in length. Letters on posted signs shall be at least one inch in height.

Sec. 10-71. - Minimum age to sell tobacco products, e-cigarettes 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 18 years of age to sell tobacco products, e-cigarettes or alternative nicotine products in any licensed premises.

Sec. 10-72. - Purchase by persons under 21.

It shall be unlawful for any person under the age of 21 years of age to purchase tobacco products, e-cigarettes or alternative nicotine products or to misrepresent his identity or age, or to use false or altered identification for the purpose of purchasing tobacco products, e-cigarettes or alternative nicotine products.

Sec. 10-73. - Possession by persons under 18.

It shall be unlawful for any person under the age of 18 years of age to possess any tobacco products, e-cigarettes or alternative nicotine products.

Sec. 10-74. - 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, e-cigarettes 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 products, e-cigarettes or alternative nicotine products free of charge to any person on any right-of-way, playground, park or other property owned by the village, any school district, any park district, or any public library district.

Sec. 10-75. - Machines to be inaccessible to persons under 21.

- (a) Each tobacco product, e-cigarette or alternative nicotine product, vending machine shall be so installed as to be inaccessible to persons under 21 years of age. Every vending machine not installed as to be inaccessible to persons under 21 years of age is hereby declared to be a public nuisance.
- (b) Inaccessibility may be accomplished either by placement of the machine in a room or area to which persons under 21 years of age do not have access or by the installation of a manual, electric, electronic or remote control locking device which can be activated and controlled only by an adult employee of the premises on which such machine is located, and then only after such adult employee has verified that the person desiring to purchase tobacco product, e-cigarette or alternative nicotine product is not a person under 21 years of age.

Sec. 10-76. - Responsibility for agents and employees.

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this article 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 punished in the same manner as if such act or omission had been done or omitted by the licensee personally.

Secs. 10-77—10-95. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-96. - Required.

It shall be unlawful to sell or offer for sale at retail, at wholesale, to give away, deliver, or to keep with the intention of selling at retail, wholesale, giving away or delivering tobacco products, e-cigarettes or alternative nicotine products within the village without first obtaining a license. This license shall be required regardless of the method of sale or dispensing and shall include sales and dispensing by self-help, manual service or coin-operated device.

Sec. 10-97. - Application.

Any person desiring to obtain a license to sell tobacco products e-cigarettes or alternative nicotine products shall make written application for that purpose to the village clerk in which

shall be set forth the full name and address of the applicant, the name and address of the business, firm or corporation at which such sales are proposed to be made.

Sec. 10-98. - Fee.

The license fee for a tobacco, e-cigarette or alternative nicotine product dealer's license within the village shall be as provided in section 10-7.

Sec. 10-99. - Scope.

The license required by this division shall authorize the licensee named therein to sell tobacco products, e-cigarettes or alternative products at the place designated therein only.

Sec. 10-100. - Posting.

Licenses required by this division shall be posted in a conspicuous place in the premises designated therein.

Sec. 10-101. - Transfer.

The transfer of any license issued under this division is hereby expressly prohibited.

Sec. 10-102. - Suspension or revocation.

Every license issued under this division is subject to the right, which is hereby expressly reserved, to suspend or revoke the same should the licensee, directly or indirectly, permit the sale of tobacco products, e-cigarettes or alternative nicotine products to any person under the age of 21, or permit the operation of any vending machine contrary to the provisions of this article, the ordinances of the village or the laws of the state. Such license may be suspended or revoked or a fine imposed by the board of trustees after written notice to the licensee, which notice should specify the ordinance or law violation with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violation. Ten days' notice of the hearing shall be given the licensee. At such hearing, the licensee and his attorney may present and submit evidence or witnesses to his defense. However, no such license shall be suspended or revoked and no licensee shall be fined except after a hearing by the village board with a ten-working-day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The ten-working-day notice provisions shall begin the day following the delivery by certified mail or by personal service.

Sec. 10-103. - Use of premises after revocation.

When any license has been revoked for any cause, no license shall be granted to any licensee for the period of six months thereafter for the conduct of the business of selling tobacco products, e-cigarettes or alternative nicotine products in the premises described in the revoked license.

Secs. 10-104—10-120. - Reserved.