
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: PATRICK J. ROLLINS, CHIEF OF POLICE
SUBJECT: ORDINANCE: AMENDING TITLE 3 CHAPTER 7 TOBACCO PRODUCTS TO REFLECT NEW STATE LAW REGARDING VAPING IN PUBLIC BUILDINGS/PLACES, AND AMENDING TITLE 5 CHAPTER 2, SECTION 1-4 POLICE REGULATIONS WITH UPDATED LANGUAGE REFLECTIVE OF THE NEW LEGISLATION AND VILLAGE ENFORCEMENT.
AGENDA: AUGUST 20, 2024
DATE: AUGUST 8, 2024

ISSUE

Should the Village amend Title 3 Chapter 7- updating the language to best reflect the changes that went into effect by State Statute regarding Tobacco Products for vaping in public buildings along with minor housekeeping items within the Chapter to better reflect the Smoke Free Illinois Act. And to amend Title 5 Chapter 2 Section 1-4 with updated language due to the changes in the new State Statute language.

DISCUSSION

At the May 21, 2024, Village Board meeting, staff discussed with the Board that the State of Illinois enacted new legislation that went into effect January 1, 2024, regarding updated language that they made to the Smoke Free Illinois Act.

As a reminder, the Smoke Free Illinois Act now prohibits vaping/e-cigarettes, like products from being consumed inside a public building/place. In addition, businesses and public places are required to update their Smoke Free Illinois Act signage. Plus, staff conveyed to the Board that other housekeeping items would be brought forth while reviewing the existing Code and comparing it to the intent of the State legislation.

The Village Board by consensus, provided direction to staff to bring back updated language for the Village Code that better reflects the Smoke Free Illinois Act. Village Attorney Julian worked on the changes to the Village Code (two Chapters dealing with the Smoke Free Illinois Act and village enforcement of the Code of Ordinances) which is depicted below.

VILLAGE CODE AMENDED

That Title 3, Chapter 7 (Tobacco Products and Electronic Cigarettes) of the Village Code shall be **renamed as herein stated and** amended to read as follows. Any provision not specifically modified herein shall remain in full force and effect.

3-7-1: LEGISLATIVE FINDINGS, DECLARATION, AND PURPOSE:

The Village Board of the Village of Sugar Grove finds **that** cigarette smoking, **electronic cigarette use**, and other tobacco use **poses by minors** a grave public health problem. Therefore, the purpose of this Chapter is to implement a strict and enforceable system to prevent the illegal sale of cigarettes, **electronic cigarettes**, and other tobacco products to minors **and to prohibit smoking and the use of electronic cigarettes in public places**.

A. Findings:

1. Cigarette smoking **and the use of electronic cigarettes is** dangerous to human health; **and**,
2. There exists substantial scientific evidence that the use of tobacco, **electronic cigarettes, and other related** products causes cancer, heart disease, and various other medical disorders; **and**,
3. The Surgeon General of the United States has **previously** declared that nicotine addiction from tobacco is similar to addiction to cocaine and is the most widespread example of drug dependence in this country; **and**,
4. The Centers for Disease Control and Prevention **has previously found have found** that among persons who have ever tried a cigarette, more than eighty percent (80%) reported having had their first cigarette as a minor; **and**,
5. The National Institute on Drug Abuse has found that cigarette smoking precedes and may be predictive of adolescent illicit drug use.

B. Enactment Of Chapter: The enactment of this chapter intends to further the health, welfare, and safety of the residents of the Village of Sugar Grove, Kane County, Illinois, particularly those residents under twenty-one (21) years of age. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-2: DEFINITIONS:

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

ALTERNATIVE NICOTINE PRODUCT: Means a product or device not consisting of or without tobacco in it 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" does not include cigarettes and tobacco products, tobacco product and electronic cigarettes, or any product approved by the United States Food and Drug Administration 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.

COMPLIANCE CHECK: An inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age of sales laws. Compliance checks are conducted by having designated persons under the age of twenty-one (21) years attempt to purchase tobacco products from vendors.

ELECTRONIC CIGARETTE: Means: a) any device that uses a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; b) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or c) any solution or substance, whether or not it contains nicotine intended for use in the device.

"Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. "Electronic cigarette" does not include: cigarettes, tobacco product and alternative nicotine product, any product approved by the United States Food and Drug Administration 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, any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose, or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

GOVERNMENT ID: Means driver's license with photo, passport, military ID cards, valid State photo ID card, foreign government- issued photo ID.

LICENSE: A license issued by the Village of Sugar Grove for the retail sale of tobacco products **and/or electronic cigarettes.**

LICENSEE: The holder of a valid license for the retail sale of tobacco products **and/or electronic cigarettes.**

MINOR: Any person under the age of twenty-one (21) years.

NICOTINE: Means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

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 70 of the Smoke Free Illinois Act, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve and 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% 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. ~~An area to which the public is invited or in which the public is permitted, including, but not limited to, any right-of-way, mall or shopping center, park, playground, and any other property owned by the Village, any school district, library district, or any park district.~~**

SELF-SERVICE DISPLAYS: Open displays of tobacco products **and/or electronic cigarettes** and point of sale tobacco promotional products **and/or electronic cigarettes** that the public has access to without intervention of a store employee.

SMOKE or SMOKING: Means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment. "Smoke" or "Smoking" includes the use of an electronic cigarette. "Smoke" or "smoking" does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians, that is in accordance with the federal American Indian Religious Freedom Act (42 U.S.C. 1996 and 1996a).

TOBACCO PRODUCT: Means any product containing or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus, and any other smokeless tobacco product which contains tobacco that is finely cut, ground, powdered, or leaf and intended to be placed in the oral cavity. "Tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include: an electronic cigarette and alternative nicotine product or any product that has been approved by the United States Food and Drug Administration 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.

VENDING MACHINE: Means any mechanical, electric or electronic, self-service device, which, upon insertion of money, tokens, or any form of payment, dispenses tobacco products **and/or electronic cigarettes**. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-3: LICENSE REQUIRED:

It shall be unlawful to sell or offer for sale at retail, give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products **and/or electronic cigarettes** within the Village without having first obtained a valid ~~tobacco~~-retailer's license from the Village for each location in which tobacco products **and/or electronic cigarettes** are sold. Licenses shall be nonrefundable and shall be issued on July 1 and shall be valid through the following June 30.

If at the time application is made for a license required by this chapter, less than six (6) months of the current license year shall have expired, the full fee shall be charged. If more than six (6) months of such current year shall have expired, a license fee of one-half ($\frac{1}{2}$) of the full fee shall be charged for such portion of the current license year that shall remain unexpired. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-4: LICENSE FEE:

The fee shall be set and determined from time to time by the Board of Trustees of the Village by resolution by said Board of Trustees. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-5: NONTRANSFERABILITY OF LICENSE:

A ~~tobacco~~-retail license is nontransferable, except a new license will be issued to a tobacco **and/or electronic cigarette** retailer who changes location. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-6: PROHIBITED SALES:

A. It shall be unlawful for any person to sell, offer for sale, give away, or deliver tobacco products **and/or electronic cigarettes** to any person under the age of twenty-one (21) years.

B. Before selling, offering for sale, giving, or furnishing a tobacco product, electronic cigarette, or alternative nicotine product to another person, the person selling, offering for sale, giving, or furnishing the tobacco product, electronic cigarette, or alternative nicotine product shall verify that the person is at least twenty one (21) years of age by examining from any person that appears to be under thirty (30) years of age a government-issued photographic identification that establishes the person to be twenty-one (21) years of age or older. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-7: WARNING SIGNS:

Signs informing the public of the age of sale restrictions shall be posted by every licensee at or near every display of tobacco products **and/or electronic cigarettes** and one upon every vending machine that offers tobacco products **and/or electronic cigarettes** for sale. Each sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS **AND/OR ELECTRONIC CIGARETTES** TO PERSONS UNDER TWENTY- ONE YEARS OF AGE PROHIBITED BY LAW

The text of such signs must be in red letters on a white background, and said letters must be at least one inch (1") high. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-8: MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS:

No person under twenty-one (21) years of age in the furtherance or facilitation of obtaining any tobacco product, electronic cigarette, or alternative nicotine product shall display or use a false or forged identification card or transfer, alter, or deface an identification card. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-9: MINIMUM AGE TO SELL TOBACCO PRODUCTS:

It shall be unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under sixteen (16) years of age to sell tobacco products **and/or electronic cigarettes** on any vendor's premises. Further, it shall be unlawful for any person under eighteen (18) years of age to sell tobacco products **and/or electronic cigarettes** on any vendor's premises unless an officer, agent, or other employee of the vendor is on the premises at the time of sale. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-10: VENDING MACHINES:

A. Locking Devices: 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 **and/or electronic cigarettes** 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 twenty-one (21) years.

B. Certain Premises: Any premises where access by persons under the age of twenty-one (21) years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of business located at such premises, shall be exempt from the requirements of subsection A of this section. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-11: TOBACCO SAMPLES AND CERTAIN FREE DISTRIBUTIONS PROHIBITED:

It shall be unlawful for any licensee or any person, business, or ~~tobacco~~ retailer to distribute, give away, or deliver tobacco products ~~and/or electronic cigarettes~~ free of charge, or deliver any coupon or rebate for tobacco products ~~and/or electronic cigarettes~~ to any person on any right-of-way, park, playground or other property owned by the Village, any school district, any park district or any public library. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-12: VENDOR ASSISTED SALES:

It shall be unlawful for any licensee, person, business, or ~~tobacco~~ retailer to sell, permit to be sold, or offer for sale any tobacco product ~~and/or electronic cigarettes~~ by means of self-service displays or any other means other than vendor assisted sales except as provided in section [3-7-10](#) of this chapter. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-13: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of any nature constituting a violation of any provision 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. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-14: POSSESSION BY MINORS PROHIBITED:

A. It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products, ~~electronic cigarettes, or alternative nicotine product~~.

B. It shall not be a violation of this section for a minor to possess any tobacco product, ~~alternative nicotine product, and/or electronic cigarette~~ where:

1. Such use takes place under the direct supervision and approval of the parent, parents, or legal guardian of the minor; and

2. Such use takes place in the privacy of a home or established place of worship or tribal meeting place; provided, however, where such use takes place in an established place of worship or tribal meeting place, such use shall not be a violation only where use is in the performance of a religious service or tribal ceremony and the religious group or tribe is legally established and recognized by the State of Illinois. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-15: INSPECTION:

It shall be the duty of the Chief of Police, or his/her designees, and they are hereby authorized and empowered to conduct random, unannounced inspections of all places wherein such tobacco products ~~and/or electronic cigarettes~~ are licensed to be sold, for the purpose of ascertaining whether the laws of the State and of the Village in relation to the same, are being complied with at such place. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-16: SALES/DISTRIBUTION VIOLATION:

The Chief of Police, or ~~their his/her~~ designee(s) shall initiate enforcement against any person who violates any provision of this Chapter, and the Village President, as Hearing Officer, shall conduct hearings upon the Chief of Police or license holder's request. The Chief of Police or ~~his/her~~ ~~their~~ designee(s) shall have the authority to enforce this Chapter, and shall develop internal policies for compliance checks and all other enforcement procedures.

Any person who shall knowingly violate, or shall knowingly cause the violation of any provision of this Chapter other than the purchasing and possession sections (sections 3-7-8 and 3-7-14 of this chapter, respectively), is guilty of a petty offense for which the offender may be fined an amount in accordance with section 1-4-1 of this Code. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-17: SUSPENSION AND REVOCATION OF LICENSE:

A license shall be suspended or revoked for any violation of this chapter after notice and opportunity to be heard as follows:

A. In the case of a first violation in a twenty-four (24) month period, the licensee shall be fined two hundred dollars (\$200.00) and shall be notified in writing of penalties levied for further violations.

B. In the case of a second violation in a twenty-four (24) month period, the licensee shall be fined five hundred dollars (\$500.00) and the ~~tobacco retail~~ license may be suspended for not less than thirty (30) consecutive business days nor more than three (3) months. ~~Tobacco~~ Retailers must remove all tobacco ~~and electronic cigarette~~ merchandise from all areas accessible to the public while the license is suspended.

C. In the case of a third violation in a twenty-four (24) month period, the licensee shall be fined seven hundred fifty dollars (\$750.00) and the ~~retail tobacco~~-license may be suspended for not less than three (3) months nor more than twelve (12) months from the date of suspension. ~~Tobacco~~ Retailers must remove all tobacco ~~and electronic cigarette~~ merchandise from all areas accessible to the public while the license is suspended.

D. In the case of a fourth violation in a twenty-four (24) month period, the licensee shall be fined one thousand dollars (\$1,000.00) and the license may be revoked. All tobacco ~~and electronic cigarette~~ merchandise must be removed from all areas accessible to the public.

Any licensee found to have violated any of the provisions of this Chapter shall pay to the Village costs of the hearing on such violation. Costs may include, but not be limited to:

court reporter 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 President may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs. Failure to pay said costs within thirty (30) days of notification is a violation of this Chapter and may cause the levy of an additional fine. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-18: PURCHASE/POSSESSION VIOLATIONS:

Any person under the age of twenty-one (21) years that violates the purchasing and possession sections (sections [3-7-8](#) and [3-7-14](#) of this chapter, respectively) will be subject to the following penalties:

A. In all such violations, the parent(s)/legal guardian(s) of a juvenile shall be notified of the alleged violation by the Police Department;

B. If said violation is a first offense in the Village of Sugar Grove by the accused, the penalty shall be a verbal warning by the Police Department;

C. If said violation is a second offense in the Village of Sugar Grove by the accused, the penalty shall be a written warning by the Police Department;

D. If said violation is a third or subsequent offense, the penalty shall be as set by Resolution 2002-0215 of the Village for compliance ticket procedures (and as said resolution is amended from time to time). Failure to comply with the provisions of said compliance ticket will result in a citation issued in the Circuit Court and the penalty shall be as provided in section [1-4-1](#) of this Code. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-19 ACKNOWLEDGEMENT OF APPLICABILITY OF THE SMOKE FREE ILLINOIS ACT

Pursuant to the Smoke Free Illinois Act (410 ILCS 82/65) the Village hereby adopts and incorporates by reference into this Code of Ordinances each and every provision of the Smoke Free Illinois Act (410 ILCS 82/1 et seq.), as amended from time to time

3-7-20 SMOKING IN PUBLIC PLACES PROHIBITED

No person shall smoke or use an electronic cigarette in any public place or within fifteen (15) feet of any entrance to a public place. Smoking or using an electronic cigarette is prohibited in indoor public places unless specifically exempted by Section 35 of the Smoke Free Illinois Act.

3-7-21 ENFORCEMENT; COMPLAINTS. The Village Police Department, in addition to its authority under the Smoke-Free Illinois Act, and except as otherwise specified in this Village Code of Ordinances, may enforce the provisions of this Section through the issuance of administrative adjudication citations pursuant to Title 1, Chapter 14 of the Village Code of Ordinances.

That Title 5, Chapter 2, Section 1-4 (Police Regulations – General Offenses - Tobacco Products and Electronic Cigarettes) of the Village Code shall be renamed as herein stated and amended to read as follows. Any provision not specifically modified herein shall remain in full force and effect.

5-2-1-4: TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES:

A. Sale Of Tobacco Products and Electronic Cigarettes to Minors: ~~No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking~~

~~herbs to any person under eighteen (18) years of age.~~ No person shall knowingly sell, barter, exchange, deliver, give away, or cause or permit or procure to be sold any tobacco product, electronic cigarette, or alternative nicotine product to persons under twenty-one (21) years of age. No person shall sell, buy for, distribute samples of, or furnish any tobacco product, electronic cigarette, or alternative nicotine product to any person under twenty-one (21) years of age.

B. **Illegal Use of Identification Card:** Identification shall be checked in accordance with the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act (720 ILCS 675/ et seq.) and other applicable laws. No person in the furtherance or facilitation of obtaining tobacco, electronic cigarettes, smoking accessories, ~~or and~~ smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.

C. **Display Of Warning Signs:** Any person operating a place of business where tobacco, electronic cigarettes, related accessories, ~~or and~~ smoking herbs are sold or offered for sale shall post, in a conspicuous place upon the premises, a sign upon which there shall be imprinted the following statement,

THE SALE OF TOBACCO PRODUCTS AND/OR ELECTRONIC CIGARETTES TO PERSONS UNDER TWENTY- ONE YEARS OF AGE PROHIBITED BY LAW

~~Sale of tobacco accessories and smoking herbs to persons under eighteen (18) years of age or the misrepresentation of age to procure such sale is prohibited by law.
(Ord. 615, 3-6-1995)~~

The sign shall be printed on a white card in red letters ~~on a white background~~ at least one inch (1") in height. (Ord. 615, 3-6-1995; amd. Ord. 2003-06-03B, 6-3-2003)

Sample required signage of what needs to be displayed is depicted below as provided by the State of Illinois.



COST

Approximately \$1,000 in Attorney Fees.

RECOMMENDATION –

That the Village Board by ordinance (2024-0820PD) amend Title 3 Chapter 7 in its' entirety regarding the Smoke Free Illinois Act, and amend Title 5, Chapter 2 Section 1-4.



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

Ordinance NO. 2024-0820-PD

AN ORDINANCE AMENDING THE VILLAGE CODE OF ORDINANCES

TITLE 3 CHAPTER 7 IN ITS ENTIRETY

AND

TITLE 5, CHAPTER 2, SECTION 1-4

FOR THE VILLAGE OF SUGAR GROVE,

KANE COUNTY, ILLINOIS

(TOBACCO PRODUCTS)

Adopted by the
Board of Trustees and President
of the Village of Sugar Grove
this 20th day of August 2024

ORDINANCE NO. 2024-0820PD

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE VILLAGE CODE OF ORDINANCES IN ACCORDANCE WITH THE SMOKE FREE ILLINOIS ACT VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS

WHEREAS, the Village of Sugar Grove ("Village") is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, acts pursuant to the powers granted to it under 65 ILCS 5/1-8 et. seq.; and,

WHEREAS, the Smoke Free Illinois Act has recently been amended (P.A. 103-0272) to prohibit the use of vaping devices, e-cigarettes, and other electronic smoking devices in most public places and workplaces in Illinois; and,

WHEREAS, the Prevention of Tobacco Use by Persons Under 21 Years of Age and Sale and Distribution of Tobacco Products Act (720 ILCS 675/0.01 *et seq.*) prohibits the sale of tobacco products, alternative tobacco products, and electronic cigarettes, to persons under 21 years of age; and,

WHEREAS, the Village has previously adopted ordinances regulating the sale and use of tobacco products and electronic cigarettes, including the prohibition of smoking in public places; and,

WHEREAS, the Board of Trustees of the Village hereby find that it is in the best interest of the Village and the health and welfare of its residents to amend the Village Code of Ordinances from time to time to reflect changes to state law; and,

NOW THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

SECTION ONE: **INCORPORATION OF RECITALS**

The recitals of this Ordinance are hereby adopted by reference as though fully set forth in this Section One.

SECTION TWO: **VILLAGE CODE AMENDED**

That Title 3, Chapter 7 (Tobacco Products and Electronic Cigarettes) of the Village Code shall be **renamed as herein stated and** amended to read as follows. Any provision not specifically modified herein shall remain in full force and effect.

3-7-1: LEGISLATIVE FINDINGS, DECLARATION, AND PURPOSE:

The Village Board of the Village of Sugar Grove finds **that** cigarette smoking, **electronic cigarette use**, and other tobacco use **poses by minors** a grave public health problem. Therefore, the purpose of this Chapter is to implement a strict and enforceable system to prevent the illegal sale of cigarettes, **electronic cigarettes**, and other tobacco products to minors **and to prohibit smoking and the use of electronic cigarettes in public places**.

A. Findings:

1. Cigarette smoking ~~and the use of electronic cigarettes is~~ dangerous to human health; ~~and,~~
2. There exists substantial scientific evidence that the use of tobacco, ~~electronic cigarettes, and other related~~ products causes cancer, heart disease, and various other medical disorders; ~~and,~~
3. The Surgeon General of the United States has ~~previously~~ declared that nicotine addiction from tobacco is similar to addiction to cocaine and is the most widespread example of drug dependence in this country; ~~and,~~
4. The Centers for Disease Control and Prevention ~~has previously found~~ ~~have found~~ that among persons who have ever tried a cigarette, more than eighty percent (80%) reported having had their first cigarette as a minor; ~~and,~~
5. The National Institute on Drug Abuse has found that cigarette smoking precedes and may be predictive of adolescent illicit drug use.

B. Enactment Of Chapter: The enactment of this chapter intends to further the health, welfare, and safety of the residents of the Village of Sugar Grove, Kane County, Illinois, particularly those residents under twenty-one (21) years of age. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-2: DEFINITIONS:

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

ALTERNATIVE NICOTINE PRODUCT: Means a product or device not consisting of or without tobacco in it 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" does not include cigarettes and tobacco products, tobacco product and electronic cigarettes, or any product approved by the United States Food and Drug Administration 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.

COMPLIANCE CHECK: An inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age of sales laws. Compliance checks are conducted by having designated persons under the age of twenty-one (21) years attempt to purchase tobacco products from vendors.

ELECTRONIC CIGARETTE: Means: a) any device that uses a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; b) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or c) any solution or substance, whether or not it contains nicotine intended for use in the device.

"Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. "Electronic cigarette" does not include: cigarettes, tobacco product and alternative nicotine product, any product approved by the United States Food and Drug Administration 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, any asthma inhaler prescribed

by a physician for that condition and is being marketed and sold solely for that approved purpose, or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

GOVERNMENT ID: Means driver's license with photo, passport, military ID cards, valid State photo ID card, foreign government- issued photo ID.

LICENSE: A license issued by the Village of Sugar Grove for the retail sale of tobacco products **and/or electronic cigarettes**.

LICENSEE: The holder of a valid license for the retail sale of tobacco products **and/or electronic cigarettes**.

MINOR: Any person under the age of twenty-one (21) years.

NICOTINE: Means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

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 70 of the Smoke Free Illinois Act, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve and 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% 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. ~~An area to which the public is invited or in which the public is permitted, including, but not limited to, any right of way, mall or shopping center, park, playground, and any other property owned by the Village, any school district, library district, or any park district.~~**

SELF-SERVICE DISPLAYS: Open displays of tobacco products **and/or electronic cigarettes** and point of sale tobacco promotional products **and/or electronic cigarettes** that the public has access to without intervention of a store employee.

SMOKE or SMOKING: Means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment. "Smoke" or "Smoking" includes the use of an electronic cigarette. "Smoke" or "smoking" does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians, that is in accordance with the federal American Indian Religious Freedom Act (42 U.S.C. 1996 and 1996a).

TOBACCO PRODUCT: Means any product containing or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus, and any

other smokeless tobacco product which contains tobacco that is finely cut, ground, powdered, or leaf and intended to be placed in the oral cavity. "Tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include: an electronic cigarette and alternative nicotine product or any product that has been approved by the United States Food and Drug Administration 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.

VENDING MACHINE: Means any mechanical, electric or electronic, self-service device, which, upon insertion of money, tokens, or any form of payment, dispenses tobacco products **and/or electronic cigarettes**. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-3: LICENSE REQUIRED:

It shall be unlawful to sell or offer for sale at retail, give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products **and/or electronic cigarettes** within the Village without having first obtained a valid ~~tobacco~~ retailer's license from the Village for each location in which tobacco products **and/or electronic cigarettes** are sold. Licenses shall be nonrefundable and shall be issued on July 1 and shall be valid through the following June 30.

If at the time application is made for a license required by this chapter, less than six (6) months of the current license year shall have expired, the full fee shall be charged. If more than six (6) months of such current year shall have expired, a license fee of one-half ($\frac{1}{2}$) of the full fee shall be charged for such portion of the current license year that shall remain unexpired. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-4: LICENSE FEE:

The fee shall be set and determined from time to time by the Board of Trustees of the Village by resolution by said Board of Trustees. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-5: NONTRANSFERABILITY OF LICENSE:

A ~~tobacco~~ retail license is nontransferable, except a new license will be issued to a tobacco **and/or electronic cigarette** retailer who changes location. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-6: PROHIBITED SALES:

A. It shall be unlawful for any person to sell, offer for sale, give away, or deliver tobacco products **and/or electronic cigarettes** to any person under the age of twenty-one (21) years.

B. Before selling, offering for sale, giving, or furnishing a tobacco product, electronic cigarette, or alternative nicotine product to another person, the person selling, offering for sale, giving, or furnishing the tobacco product, electronic cigarette, or alternative nicotine product shall verify that the person is at least twenty one (21) years of age by examining from any person that appears to be under thirty (30) years of age a government-issued photographic identification that establishes the person to be twenty-one (21) years of age or older. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-7: WARNING SIGNS:

Signs informing the public of the age of sale restrictions shall be posted by every licensee at or near every display of tobacco products **and/or electronic cigarettes** and one upon every vending machine that offers tobacco products **and/or electronic cigarettes** for sale. Each sign shall be plainly visible and shall state:

*THE SALE OF TOBACCO PRODUCTS **AND/OR ELECTRONIC CIGARETTES** TO PERSONS UNDER TWENTY- ONE YEARS OF AGE PROHIBITED BY LAW*

The text of such signs must be in red letters on a white background, and said letters must be at least one inch (1") high. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-8: MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS:

No person under twenty-one (21) years of age in the furtherance or facilitation of obtaining any tobacco product, electronic cigarette, or alternative nicotine product shall display or use a false or forged identification card or transfer, alter, or deface an identification card. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-9: MINIMUM AGE TO SELL TOBACCO PRODUCTS:

It shall be unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under sixteen (16) years of age to sell tobacco products **and/or electronic cigarettes** on any vendor's premises. Further, it shall be unlawful for any person under eighteen (18) years of age to sell tobacco products **and/or electronic cigarettes** on any vendor's premises unless an officer, agent, or other employee of the vendor is on the premises at the time of sale. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-10: VENDING MACHINES:

A. Locking Devices: 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 **and/or electronic cigarettes** 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 twenty-one (21) years.

B. Certain Premises: Any premises where access by persons under the age of twenty-one (21) years is prohibited by law, or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of business located at such premises, shall be exempt from the requirements of subsection A of this section. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-11: TOBACCO SAMPLES AND CERTAIN FREE DISTRIBUTIONS PROHIBITED:

It shall be unlawful for any licensee or any person, business, or ~~tobacco~~ retailer to distribute, give away, or deliver tobacco products **and/or electronic cigarettes** free of charge, or deliver any coupon or rebate for tobacco products **and/or electronic cigarettes** to any person on any right-of-way, park, playground or other property owned by the Village, any school district, any park district or any public library. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-12: VENDOR ASSISTED SALES:

It shall be unlawful for any licensee, person, business, or ~~tobacco~~ retailer to sell, permit to be sold, or offer for sale any tobacco product ~~and/or electronic cigarettes~~ by means of self-service displays or any other means other than vendor assisted sales except as provided in section [3-7-10](#) of this chapter. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-13: RESPONSIBILITY FOR AGENTS AND EMPLOYEES:

Every act or omission of any nature constituting a violation of any provision 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. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-14: POSSESSION BY MINORS PROHIBITED:

A. It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products, ~~electronic cigarettes, or alternative nicotine product.~~

B. It shall not be a violation of this section for a minor to possess any tobacco product, ~~alternative nicotine product, and/or electronic cigarette~~ where:

1. Such use takes place under the direct supervision and approval of the parent, parents, or legal guardian of the minor; and

2. Such use takes place in the privacy of a home or established place of worship or tribal meeting place; provided, however, where such use takes place in an established place of worship or tribal meeting place, such use shall not be a violation only where use is in the performance of a religious service or tribal ceremony and the religious group or tribe is legally established and recognized by the State of Illinois. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-15: INSPECTION:

It shall be the duty of the Chief of Police, or his/her designees, and they are hereby authorized and empowered to conduct random, unannounced inspections of all places wherein such tobacco products ~~and/or electronic cigarettes~~ are licensed to be sold, for the purpose of ascertaining whether the laws of the State and of the Village in relation to the same, are being complied with at such place. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-16: SALES/DISTRIBUTION VIOLATION:

The Chief of Police, or ~~their his/her~~ designee(s) shall initiate enforcement against any person who violates any provision of this Chapter, and the Village President, as Hearing Officer, shall conduct hearings upon the Chief of Police or license holder's request. The Chief of Police or ~~his/her their~~ designee(s) shall have the authority to enforce this Chapter, and shall develop internal policies for compliance checks and all other enforcement procedures.

Any person who shall knowingly violate, or shall knowingly cause the violation of any provision of this Chapter other than the purchasing and possession sections (sections [3-7-8](#) and [3-7-14](#) of this

chapter, respectively), is guilty of a petty offense for which the offender may be fined an amount in accordance with section [1-4-1](#) of this Code. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-17: SUSPENSION AND REVOCATION OF LICENSE:

A license shall be suspended or revoked for any violation of this chapter after notice and opportunity to be heard as follows:

A. In the case of a first violation in a twenty-four (24) month period, the licensee shall be fined two hundred dollars (\$200.00) and shall be notified in writing of penalties levied for further violations.

B. In the case of a second violation in a twenty-four (24) month period, the licensee shall be fined five hundred dollars (\$500.00) and the ~~tobacco~~ retail license may be suspended for not less than thirty (30) consecutive business days nor more than three (3) months. ~~Tobacco~~ Retailers must remove all tobacco and electronic cigarette merchandise from all areas accessible to the public while the license is suspended.

C. In the case of a third violation in a twenty-four (24) month period, the licensee shall be fined seven hundred fifty dollars (\$750.00) and the ~~retail tobacco~~ license may be suspended for not less than three (3) months nor more than twelve (12) months from the date of suspension. ~~Tobacco~~ Retailers must remove all tobacco and electronic cigarette merchandise from all areas accessible to the public while the license is suspended.

D. In the case of a fourth violation in a twenty-four (24) month period, the licensee shall be fined one thousand dollars (\$1,000.00) and the license may be revoked. All tobacco and electronic cigarette merchandise must be removed from all areas accessible to the public.

Any licensee found to have violated any of the provisions of this Chapter shall pay to the Village costs of the hearing on such violation. Costs may include, but not be limited to: court reporter 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 President may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs. Failure to pay said costs within thirty (30) days of notification is a violation of this Chapter and may cause the levy of an additional fine. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-18: PURCHASE/POSSESSION VIOLATIONS:

Any person under the age of twenty-one (21) years that violates the purchasing and possession sections (sections [3-7-8](#) and [3-7-14](#) of this chapter, respectively) will be subject to the following penalties:

A. In all such violations, the parent(s)/legal guardian(s) of a juvenile shall be notified of the alleged violation by the Police Department;

B. If said violation is a first offense in the Village of Sugar Grove by the accused, the penalty shall be a verbal warning by the Police Department;

C. If said violation is a second offense in the Village of Sugar Grove by the accused, the penalty shall be a written warning by the Police Department;

D. If said violation is a third or subsequent offense, the penalty shall be as set by Resolution 2002-0215 of the Village for compliance ticket procedures (and as said resolution is amended from time to time). Failure to comply with the provisions of said compliance ticket will result in a citation issued in the Circuit Court and the penalty shall be as provided in section 1-4-1 of this Code. (Ord. 2019-06-18-PD, 6-18-2019, eff. 7-1-2019)

3-7-19 ACKNOWLEDGEMENT OF APPLICABILITY OF THE SMOKE FREE ILLINOIS ACT

Pursuant to the Smoke Free Illinois Act (410 ILCS 82/65) the Village hereby adopts and incorporates by reference into this Code of Ordinances each and every provision of the Smoke Free Illinois Act (410 ILCS 82/1 *et seq.*), as amended from time to time

3-7-20 SMOKING IN PUBLIC PLACES PROHIBITED

No person shall smoke or use an electronic cigarette in any public place or within fifteen (15) feet of any entrance to a public place. Smoking or using an electronic cigarette is prohibited in indoor public places unless specifically exempted by Section 35 of the Smoke Free Illinois Act.

3-7-21 ENFORCEMENT; COMPLAINTS. The Village Police Department, in addition to its authority under the Smoke-Free Illinois Act, and except as otherwise specified in this Village Code of Ordinances, may enforce the provisions of this Section through the issuance of administrative adjudication citations pursuant to Title 1 Chapter 14 of the Village Code of Ordinances.

That Title 5, Chapter 2, Section 1-4 (Police Regulations – General Offenses - Tobacco Products **and Electronic Cigarettes**) of the Village Code shall be renamed as herein stated and amended to read as follows. Any provision not specifically modified herein shall remain in full force and effect.

5-2-1-4: TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES:

A. Sale Of Tobacco Products **and Electronic Cigarettes** to Minors: ~~No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under eighteen (18) years of age.~~ No person shall knowingly sell, barter, exchange, deliver, give away, or cause or permit or procure to be sold any tobacco product, electronic cigarette, or alternative nicotine product to persons under twenty-one (21) years of age. No person shall sell, buy for, distribute samples of, or furnish any tobacco product, electronic cigarette, or alternative nicotine product to any person under twenty-one (21) years of age.

B. Illegal Use of Identification Card: Identification shall be checked in accordance with the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act (720 ILCS 675/ *et seq.*) and other applicable laws. No person in the furtherance or facilitation of obtaining **tobacco, electronic cigarettes**, smoking accessories, **or and** smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.

C. Display Of Warning Signs: Any person operating a place of business where tobacco, **electronic cigarettes, related** accessories, **or and** smoking herbs are sold or offered for sale shall post, in a conspicuous place upon the premises, a sign upon which there shall be imprinted the following statement,

THE SALE OF TOBACCO PRODUCTS AND/OR ELECTRONIC CIGARETTES TO PERSONS UNDER TWENTY- ONE YEARS OF AGE PROHIBITED BY LAW

~~Sale of tobacco accessories and smoking herbs to persons under eighteen (18) years of age or the misrepresentation of age to procure such sale is prohibited by law.~~

~~(Ord. 615, 3-6-1995)~~

The sign shall be printed on a white card in red letters **on a white background** at least one inch (1") in height. (Ord. 615, 3-6-1995; amd. Ord. 2003-06-03B, 6-3-2003)

SECTION THREE: **MISCELLANEOUS PROVISIONS**

- A. That if any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.
- B. All ordinances or provisions of ordinances which are in conflict with this Ordinance are hereby repealed.
- C. This Ordinance shall be in full force and effect from and after its passage, approval, and publication form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois on this 20th day of August 2024.

Jennifer Konen
President of the Board of Trustees
of the Village of Sugar Grove, Kane
County, Illinois

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	_____	_____	_____	_____
Trustee Sean Herron	_____	_____	_____	_____
Trustee Heidi Lendi	_____	_____	_____	_____
Trustee Michael Schomas	_____	_____	_____	_____
Trustee Sean Michels	_____	_____	_____	_____
Trustee James F. White	_____	_____	_____	_____

ATTEST: _____

Tracey Conti
Clerk, Village of Sugar Grove