

ORDINANCE 2018 – O - 20

**AN ORDINANCE REPEALING AND READOPTING A NEW CHAPTER 126 TO
TITLE IX OF THE WINTHROP HARBOR MUNICIPAL CODE
REGULATING AND LICENSING TOBACCO AND E-CIGARETTE DEALERS**

WHEREAS, the Village of Winthrop Harbor, Illinois (“Village”) has adopted a Village Code of Ordinances (“Code”); and

WHEREAS, the Illinois Municipal Code provides for the regulation and inspection of tobacco by municipalities pursuant to 65 ILCS 5/11-20-3; and

WHEREAS, the Illinois Municipal Code allows municipalities to do all acts and make all regulations necessary or expedient for the promotion of health or the suppression of diseases pursuant to 65 ILCS 5/11-20-5; and

WHEREAS, the Illinois Municipal Code allows municipalities to regulate and prohibit those businesses of which create nuisances within the Village pursuant to 65 ILCS 5/11-42-9 and 10; and

WHEREAS, the Illinois Municipal Code allows municipalities to adopt and enforce all necessary police ordinances pursuant to 65 ILCS 5/11-1-1; and

WHEREAS, the United States Supreme Court has also long recognized the inherent power of Illinois municipalities to regulate the sale of tobacco, through the case of *Guntling v. Chicago*, 177 U.S. 1263; and

WHEREAS, the principle active ingredient in tobacco is nicotine which has been shown by competent scientific evidence to be an addictive substance and which is also the principle ingredient in so-called vaping products such as e-cigarettes; and

WHEREAS, the Village Board finds that it is necessary and appropriate to regulate and license tobacco dealers as well as dealers of other nicotine delivery devices including specifically e-cigarettes and vaping products; and

WHEREAS, the Village Board finds that the health hazards of smoking and other uses of tobacco products are well-documented, including many years’ worth of opinions of the United States Surgeon General, and that there are a multitude of laws intended to assist in curbing underage smoking and to deter adults from engaging in the consumption of tobacco products, and

WHEREAS, the Village Board finds that the proliferation of stores specializing in the sale of tobacco and tobacco-related products has become a nuisance and a blight upon this Village, particularly because of the difference in sales tax rates causing cigarettes sold in Lake County, Illinois to be less expensive than those sold in the neighboring areas of Kenosha County, Wisconsin, and that the same is likely to become an even bigger nuisance in the future; and

WHEREAS, the Village Board finds that some of the smoking apparatus sold in tobacco shops within the Village is of a type that often is used to ingest illegal drugs, including, but not limited to crack cocaine and marijuana, that the sale of such items encourages illicit drug use particularly among susceptible teenagers, and that the sale of such goods should be deterred and regulated as much as possible, within the bounds of federal and state laws; and

WHEREAS, the Village Board finds that the e-cigarette industry is expanding at a significant rate, with contradictory information being available on the safety and health issues associated with this class of products, and with some information tending to show that they can help overcome smoking addictions, and other information tending to show it as another form of “gateway” to people becoming addicted, including the efforts of Juul and other corporations to market it as an addictive product resulting in FDA investigations and raids as recently as October 1, 2018; and

WHEREAS, the FDA has confirmed that youth vaping jumped 75 percent in the past year as a result of the efforts of Juul and other e-cigarette manufacturers to market these nicotine delivery products, with CDC studies showing that in 2017, more than 2 million middle- and high-school students used e-cigarettes nationally; and

WHEREAS, the Village Board finds it prudent to closely monitor the sales of vaping products including e-cigarettes in view of the potential for sales to minors and their use of the products as lead-ins to other addictions such as smoking and the use of other substances; and

WHEREAS, the Village Board finds that it is necessary and desirable for local units of government, including this Village, to adopt the strictest measures legally permissible to protect the youth of this Village from the dangers of underage smoking and vaping, and to deter adults from engaging in the consumption of tobacco products, vaping products and e-cigarettes, and also to protect the populace from nuisances and the proliferation of unhealthy businesses; and

WHEREAS, the Village has had Chapter 126 of the Village Code in full force and effect for several years, but the rapid rise of the use of vaping products and e-cigarettes by minors and older teenagers has demonstrated that increasing the scope of these regulations to include these products is essential to effectively protecting the health of the people of this community; and

WHEREAS, the Village Board also finds that the sales of tobacco and nicotine delivery devices to persons under age 21 contributes to the expansion of smoking and vaping by teenagers and younger persons, jeopardizing the overall health of the community; and

WHEREAS, the Village Board has determined it is in the best interest of the Village and its citizens to repeal the existing ordinance regulating only tobacco sales and to expand it to include other nicotine delivery systems including vaping and e-cigarettes, and in addition to raise the legal age of sale of such products to a uniform 21 years of age:

NOW THEREFORE, be it ordained by the Mayor and Trustees of the Village of Winthrop Harbor, Illinois as follows:

SECTION ONE: The above recitals are incorporated herein and made a part hereof.

SECTION TWO: Chapter 126 of the Village of Winthrop Harbor, Illinois Code of Ordinances, pertaining to the licensing of Tobacco Dealers, is hereby repealed in its entirety.

SECTION THREE: That a new Chapter 126 to be incorporated into Title XI of the Village Code is hereby adopted, and it shall hereafter provide as follows:

CHAPTER 126. TOBACCO AND E-CIGARETTE DEALERS

126.01. Definitions.

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

“Alternative nicotine products” means any product other than traditional tobacco and snuff which can be chewed, inhaled or orally ingested which contains nicotine. By way of example, and not limitations, products such as lozenges or chewing gum containing nicotine are alternative nicotine products.

“Compliance check” means an inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age-of-sales laws.

“Drug paraphernalia” means all equipment, products and materials of any kind which are peculiar to and marketed for use and planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, re-packaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the “Cannabis Control Act” or the “Illinois Control Substances Act.” It includes, but is not limited to:

1. Kits peculiar to and marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
2. Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
3. Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
4. Diluents and adulterants peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
5. Objects peculiar to and marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, including, where applicable, the following items:
 - a. Water pipes,
 - b. Carburetion tubes and devices,
 - c. Smoking and carburetion masks,

- d. Miniature cocaine spoons and cocaine vials,
- e. Carburetor pipes,
- f. Electric pipes,
- g. Air-driven pipes,
- h. Chillums,
- i. Bongs; and
- j. Ice pipes or chillers.

6. Any item whose purpose, as announced or described by the seller, is for use in violation of the “Cannabis Control Act” or the “Illinois Controlled Substances Act.”

Electronic cigarettes. "Electronic cigarette" or "e-cigarette" means a battery-operated device that contains a combination of nicotine, flavor, or chemicals or any combination thereof that are turned into vapor which is inhaled by the user.

“License” means a license issued by the Village of Winthrop Harbor for the retail sale of tobacco products.

“Licensee” means the holder of a valid license for the retail sale of tobacco products.

“Nicotine delivery system” means any product which has the effect of delivering nicotine into human lungs.

“Minor” means any person under the age of eighteen years of age.

“Public place” means 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, or any park district.

“Regulated products” means products that are subject to the regulations of this Chapter, including tobacco, tobacco accessories, e-cigarettes, vaping products, alternative nicotine products and any other nicotine delivery system.

“Self-service displays” means open displays of tobacco products that the public has access to without intervention of a store employee.

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

“Tobacco accessories” means any cigarette papers, pipes, holder of smoking materials of all types, cigarette rolling machines and other items designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any ordinance or statute.

“Vape” or “Vaping” means the process of using an e-cigarette.

“Vaping products” means the oils, liquids, nicotine, flavorants, and other chemicals used in the process of vaping.

“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.

126.02. License Required.

A. It is unlawful to sell, barter, transport, deliver, furnish, possess, keep or offer for sale at retail tobacco products or accessories, or engage in or conduct a retail tobacco business, or conduct any place for the sale of tobacco products or accessories within the corporate limits of the Village, without having a retail tobacco dealer’s license, or in violation of the terms of such licenses.

B. It is unlawful to sell, barter, transport, deliver, furnish, possess, keep or offer for sale at retail any nicotine delivery system, including e-cigarettes and vaping products or accessories, or engage in or conduct a retail e-cigarette or vaping business, or to operate any place for the sale of nicotine delivery systems or accessories within the corporate limits of the Village, without having a retail e-cigarette dealer’s license, or in violation of the terms of such licenses.

126.03. License Application.

Application for such license shall be made to the Village of Winthrop Harbor in writing upon blanks prepared and furnished by the Village (which may be on forms provided for joint filing with liquor licenses), signed by the applicant, if any individual; or by at least two members of a partnership, if the applicant is a partnership, or if the applicant is a corporation, then by the president and secretary thereof, verified by oath or affidavit of the signers, and shall contain the following information and statements:

A. The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to share in five percent (5%) or more of the profits thereof; and in the case of a corporation the date of the incorporation, the state of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and the name and address of all persons owning more than five percent (5%) of the stock, along with a copy of the corporate charter currently on file with the Illinois Secretary of State;

B. The citizenship of the applicant, their place of birth and if a naturalized citizen, the time and place of their naturalization;

C. The character of business of the applicant;

D. The length of time that the applicant has been in business of that character;

E. In the case of a partnership, the date of the formation of the partnership;

F. The applicant’s current state tobacco license number from the Department of Revenue (unless already bonded under the Cigarette Tax Act of the Cigarette Use Tax Act);

G. The location and description of the premises or place of business which is to be operated under such license;

H. A statement whether the applicant has made a similar application for a similar or other license on premises other than described in the application, and the disposition of such application;

I. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or any ordinance or statute;

J. Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefore;

K. A statement that the applicant will not violate any of the laws of the state or of the United States or any ordinance of the Village in the conduct of business

L. A statement that the applicant has, or is eligible for and will obtain, a license from the State of Illinois in the event such a license is required by applicable statute or departmental regulation.

126.04. License—Restrictions on Applicants.

No license shall be granted to:

A. A person who is not of good character and reputation;

B. A person who is not a citizen or lawful permanent resident of the United States;

C. A person who has been convicted of a felony under any federal or state law, unless the Village Board determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Village Board's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;

D. A person who has been convicted of pandering or any other crime or misdemeanor opposed to decency and morality;

E. A person who at the time of application for renewal of any license issued would not be eligible for a license upon a first application;

F. A partnership, if any general partner thereof, or any limited partner thereof, owning more than five percent of the aggregate limited partner interest in such partnership would not be eligible to receive a license hereunder for any reason;

G. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship;

H. A corporation unless it is incorporated in Illinois, or is qualified under the "Business Corporation Act of 1983" (850 ILCS 5/1.01 et seq.) to transact business in Illinois;

I. A person whose place of business is conducted by a manager or agent unless the manager or agent possess the same qualifications required for the licensee;

J. A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period of the license is to be issued;

K. A person who does not qualify for a state license, in the event such a license is required by applicable statute or departmental regulation.

126.05. Ownership Changes.

Any change in the names, addresses, or identity of any owner or holder of five percent or more of any stock, shares, equity, or other instrument of ownership of a licensee licensed under this chapter, shall be reported to the Village Clerk within ten days of any such change.

126.06. License Fee – Background Checks.

A. Each such license shall terminate on the 30th day of April next following the date of issuance. The fee to be paid shall be applicable for a full year, or any part thereof, without proration or other reduction if purchased for less than a full year. All fees for licenses pursuant to this chapter shall be paid at the time the application is made.

B. The Chief of Police shall conduct a criminal background check of all applicants at the time of their initial application, and at any time a change in ownership results in a new owner being added to the reported list of owners or holders of 5% equity or stock. By applying for a license, the applicant agrees to provide proof of submission under the Uniform Conviction Information Act through a fingerprint conviction information request with an approved Livescan vendor authorized by the Illinois State Police within the preceding 30 days and to this background check. Applicants may be required to sign such consent forms as the Chief may reasonably require. The Chief shall report to the Village Board whether the application is demonstrably false in any material respect or if the applicant is ineligible to hold a license.

C. In the event that a license is denied, the license fee shall be refunded to the applicant, less a fifty-dollar (\$50.00) processing fee.

126.07. License—Class A—General Tobacco Sales Retailer.

A. Businesses whose primary activity is other than the sale of tobacco products, shall obtain a Class A license before engaging in sales. “Primary sales” means sales that constitute fifty percent (50%) or more of the total sales of the business.

B. The annual fee for such license is two hundred fifty dollars (\$250.00) for each tobacco retail location.

C. There shall be no more than 6 class A licenses in the Village of Winthrop Harbor at any point in time. Licenses will be issued in the order that applications are received. Licenses will cease to be issued at the time that 6 licenses have been issued and will not be issued again until the number of licensed vendors is below 6 due to revocation of a vendor’s license or failure of a vendor to renew a license.

D. A Class A license is nontransferable, except a new license will be issued to a tobacco retailer who changes location.

E. A list of Class A licensees shall be kept by the Village Clerk of the Village of Winthrop Harbor.

126.08. License—Class B—Primary Tobacco Sales Retailer.

A. Businesses whose primary activity is the sale of tobacco products shall obtain a Class B license before engaging in sales. “Primary sales” means sales that constitute fifty percent (50%) or more of the total sales of the business.

B. The annual fee for such license is three thousand dollars (\$3,000.00) for each tobacco retail location.

C. There shall be no more than 3 class B licenses in the Village of Winthrop Harbor at any point in time. Licenses will be issued in the order that applications are received. Licenses will cease to be issued at the time that 3 licenses have been issued and will not be issued again until the number of licensed vendors is below 3 due to revocation of a vendor's license or failure of a vendor to renew a license.

D. A Class B license is nontransferable, except a new license will be issued to a tobacco retailer who changes location.

E. Those subject to this section, who sell tobacco products or accessories to minors, shall be subject to immediate revocation of their license and special use permit.

F. A list of Class B licensees shall be kept by the Village Clerk of the Village of Winthrop Harbor.

126.09. License—Class C—E-Cigarette Sales Retailer.

A. Businesses who intend to sell e-cigarettes, vaping products and/or other nicotine delivery systems and accessories, shall obtain a Class C license before engaging in sales.

B. The annual fee for such license is three thousand dollars (\$3,000.00) for each e-cigarette retail location.

C. The annual fee for such license will be waived if the licensee holds a Class A or B Tobacco Sales Retailer's License.

126.10 License Non-transferability and Records

A. Licenses will be issued in the order that applications are received.

B. Licenses are nontransferable, except a new license will be issued to a licensee who changes location.

126.11. License—Posting.

Every licensee shall cause the license or licenses to be framed and hung in a conspicuous place on the licensee's premises.

126.12. License—Proximity to Certain Institutions.

A. Generally. It is unlawful for any person or licensee to sell, offer for sale, give away or deliver regulated products within one hundred (100) feet of any school, child care facility or other building used for educational or recreational purposes by persons under eighteen years of age. For the purpose of this Sub-section, measurement shall be made in a straight line, without regard to intervening structures or objects, from nearest portal of the building or structure used as a part of the premises where a licensed establishment is located, to the nearest portal of a school, child care facility or other building used for educational or recreational purposes by persons under eighteen years of age.

B. Grandfathered sites. In the event a licensee is located in technical violation of the distance requirements of this Section at the time of the adoption of this Chapter, each such

licensee shall be considered to have legal non-conforming status, which will remain intact until such time as the licensee ceases to operate its business at that location. A change of ownership to a new licensee properly reported to the Village Clerk pursuant to Section 126.05 shall not be considered the ceasing of business operations at a given location.

126.13. License—Issuance.

Upon the approval by the Village Board of the Village of Winthrop Harbor of the application as provided in this chapter and the payment of the required license fee, the Village Clerk shall issue to the person or persons applying therefore a license allowing the retail sale of tobacco and e-cigarette products under the provisions of this chapter, indicating the classification under which the license is issued, and the term for which such license is issued. The license shall be signed by the Mayor.

126.14. License—Revocation or Suspension.

A. The Winthrop Harbor Mayor may revoke or suspend any license if it is determined that the licensee has violated any state statute or any of the provisions of any ordinance or resolution of the Village or any applicable rule or regulation established by the Village Board. However, no such license shall be revoked or suspended until after a public hearing by the Village Board with a written notice to the licensee affording the licensee a minimum of three business days in which to appear and defend. In all such hearings, the Village Attorney shall reduce, or cause to be reduced, all evidence to writing and shall maintain an official record of the proceedings. The Mayor shall, within five days after such hearing, state the reasons for the Village Board's determination in a written order of revocation or suspension and shall serve a copy of such order upon the licensee. The decision of the Village Board on any license suspension or revocation proceeding shall constitute a final administrative action and is subject to review in the courts under the Illinois Administrative Review Act, 735 ILCS 5/3-101, et. seq.

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

1. In the case of a first violation, the licensee shall be fined not less than Two Hundred dollars (\$200.00) and no more than seven hundred fifty dollars (\$750.00) and shall be notified in writing of penalties levied for further violations. Each day that a violation continues shall constitute a separate violation.

2. In the case of a second violation, the licensee shall be fined not less than Three Hundred Fifty dollars (\$350.00.00) and no more than seven hundred fifty dollars (\$750.00) and the tobacco license shall be suspended for not less than thirty consecutive business days nor more than ninety consecutive days. Tobacco retailers must remove all regulated products and accessories from public view while the license is suspended and all regulated product sales shall be suspended. Notice of the suspension shall be posted in plain view of the public at the licensee's premises.

3. In the case of a third violation, the licensee shall be fined not less than Five Hundred dollars (\$500.00) and no more than seven hundred fifty dollars (\$750.00) and the tobacco license shall be suspended for not less than six months nor more than eighteen months from the date of suspension and all regulated product sales shall be suspended. Tobacco retailers

must remove all tobacco products and accessories from public view while the license is suspended.

4. In the case of a fourth violation, the licensee shall be fined seven hundred fifty dollars (\$750.00) and the license shall be revoked. All regulated products and accessories must be removed from all areas.

C Any licensee determined by the Village Board to have violated any of the provisions of this chapter shall pay to the Village costs of the hearing on such violation. The Village shall determine the costs of the hearing, including, but not limited to: court reporter's fees, attorney's fees incurred by the Village, 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 Board may allow, and such costs assessed shall be in addition to the fine imposed. Notice of the suspension shall be posted in plain view of the public at the licensee's premises.

D. The licensee shall pay said costs to the Village within thirty days of notification of the costs. Failure to pay said costs within thirty days of notification is a violation of this chapter and may cause the levy of an additional fine or revocation of license at the discretion of the Village Board.

E. When any license shall have been revoked for any cause, no license shall be granted to such licensee for the period of six months thereafter for the sale of regulated products in the premises described in such revoked license.

F. While it shall not be a defense to an action brought under this section that the retailer's employee conducted the unlawful sale or transaction, the Village Board may, in its discretion, direct prosecution of an ordinance violation case against that employee in lieu of taking formal action on the establishment's license and licensee.

126.15. Sales—Minors—Prohibited.

A. It is strictly unlawful for any person to sell, offer for sale, give away or deliver regulated products to any person under the age of twenty-one (21) years.

B. No licensee or his agent or employees shall permit any person under the age of twenty-one (21) years in or about any premises operating under a Class B or C license unless that minor is accompanied by a parent or guardian.

126.16. Warning Signs.

A. It is unlawful for any person to sell, offer for sale, give away or deliver tobacco products or tobacco accessories in any place that does not post signs informing the public of the age-of-sale restrictions and surgeon general warning in a conspicuous place at or near every display of tobacco products. Each sign shall be plainly visible and shall state:

1. "SALE OF TOBACCO ACCESSORIES, VAPING PRODUCTS AND SMOKING HERBS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE, OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW."

2. "SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT."

B. The text of such signs must be in red letters on a white background, and said letters must be at least one-half inch high.

C. To ensure uniformity and to promote public health, the Village Clerk may issue standard signs which meet the requirements of this provision at the same time that licenses are issued.

126.17. Identification required.

No licensee shall sell or permit to be sold regulated products or accessories to an individual without requesting and examining photographic identification establishing the purchaser's age as twenty-one (21) years of age or greater.

126.18. Vending Machines Prohibited.

Tobacco vending machines or any other devices for the sale or distribution of regulated products are prohibited.

126.19. Sale or Delivery of Drug Paraphernalia Prohibited.

A. No person shall keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of drug paraphernalia.

B. Any store, place, or premises from which or in which any item of drug paraphernalia is kept for sale, offered for sale, sold or delivered for any commercial consideration is declared to be a public nuisance.

C. Items marked for use in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale shall be exempt from this section.

D. Any person, firm or corporation violating this section, or any part thereof, shall be fined not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00) for each violation.

E. The Village shall further have the discretion to seek a suspension or revocation of any licensee's license under Section 126.014 in the event of any violation of this Section.

126.20. Minimum Age to Purchase Regulated Products and Accessories.

A. It is unlawful for any person under the age of twenty-one (21) years to purchase regulated products or misrepresent their age or use any false or altered identification with the intention of purchasing regulated products.

B. Any person under the age of twenty-one (21) years shall not be in violation of this section if such regulated product is in an unopened container or package and was in the person's possession pursuant to the performance of specified duties at a lawful place of employment. By way of example, and not limitation, this provision allows persons under eighteen to stock shelves with tobacco products at a licensed establishment, but it does not authorize that person to conduct sales. (Also see Section 126.021)

126.21. Minimum Age to Sell Tobacco Products and Accessories.

It is unlawful for any licensee, officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under twenty-one (21) years of age to sell tobacco products or accessories on any vendor's premises.

126.22. Out-of-Package Sales Prohibited.

It is unlawful to sell regulated products out of the manufacturer's package with required health warnings and tax seals. It is unlawful to sell cigarettes individually or other nicotine delivery system products in any form other than in the manufacturer's original packaging.

126.23. Vendor-Assisted Sales Required.

It is unlawful to sell, offer for sale, give away, or display regulated products for sale at any location where the consumer can acquire those products through self-service. All regulated products must be displayed from behind a sales/service counter so that no consumer can access regulated products without the assistance of an employee of the licensee.

126.24. Responsibility for Agents and Employees.

Every act or omission of any nature constituting a violation of any 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. Notwithstanding this provision, nothing herein shall prevent the individual prosecution of such officers, directors, managers or other agents or employees in the discretion of the licensing authority or arresting authority.

126.25. Inspection.

It shall be the duty of the Chief of Police to establish protocols and procedures appropriate 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 all licensed establishments.

126.26. Parental Responsibility.

No parent, guardian or custodian of a person under the age of eighteen years of age shall permit, facilitate, condone or allow such minor to purchase, possess or consume in any manner or form cigarettes or any other regulated products.

126.25. Penalty.

Any person, firm or corporation violating any provisions of this chapter (other than the specific fines and suspension provisions set forth in section 126.14) shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

SECTION FOUR: Grandfathered Licenses. All licenses held at the time this amendatory ordinance is adopted shall continue in full force and effect, without further fees due therefore, to the end of their current term of April 30, 2019. The fees for any and all licenses issued for the sale of vaping products or e-cigarettes following adoption of this ordinance but prior to April 30, 2019 shall be one-half the amount described in the foregoing code provisions. All licenses issued after April 30, 2019 shall be charged the full fees described in the code.

SECTION FIVE: Except as amended in this Ordinance, all other provisions and terms of Village Code of Ordinances shall remain in full force and effect as previously enacted except that those ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION SIX: In the event any provision of this Ordinance should be deemed unenforceable for any reason, it is the intention of the corporate authorities that the balance should remain in full force and effect to the maximum extent possible.

SECTION SEVEN: This Ordinance shall be in full force and effect after its approval, passage and publication in pamphlet form as required by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WINTHROP HARBOR,
ILLINOIS, ON THIS 4th DAY OF DECEMBER, 2018.

ATTEST:

DR. MICHAEL BRUNO, MAYOR

JULIE RITTENHOUSE, VILLAGE CLERK