

ORDINANCE NO. 2011-14

AN ORDINANCE AMENDING CHAPTER 22, "BUSINESSES", OF THE ORDINANCES OF THE VILLAGE OF STICKNEY, ILLINOIS BY REVISING ARTICLE IX, "CIGARETTE DEALERS".

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, A HOME RULE UNIT OF GOVERNMENT AS FOLLOWS:

WHEREAS, the Village of Stickney (the "Village") is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village of Stickney declares that cigarette smoking is dangerous to human health; and

WHEREAS, the Village of Stickney acknowledges that the present legislative scheme of prohibiting sales of tobacco products to persons under the age of 18 has proven ineffective in preventing the persons from using tobacco products; and

WHEREAS, The Village of Stickney wants to establish better regulations to provide a community that takes the importance of health, welfare, safety and morals of the residents of the village, in particular those residents under the age of 18.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEE OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS.

Section 1. Recitals. The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption. Chapter 22, Article IX, Cigarette Dealers, Section 22-333 of the Municipal Code of the Village of Stickney shall be amended to read as follows:

Sec. 22-333 Minors.

~~It shall be unlawful to sell, dispense, deliver or give cigarettes to any male or female child under 18 years of age.~~

Sec. 22-333 Minors

(a) Underage Tobacco Sales

- (1) No Retailer may sell or distribute tobacco products to any person under 18 years of age.
- (2) Each retailer shall request and examine the photographic identification of any person purchasing tobacco products so as to verify that the purchaser is over 18 years of age. No such verification is required for any person who appears without reasonable doubt to be over the age of 27.
- (3) No person under the age of 18 years shall purchase tobacco products, misrepresent his or her identity of age or use any false or altered identification for the purpose of purchasing tobacco products.
- (4) No person shall sell any smokeless tobacco product to any person under the age of 18.
- (5) No person shall sell, barter, exchange, deliver, or give away tobacco accessories or smoking herbs to any person under 18 years of age.

- (6) Tobacco accessories shall mean cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items, designed primarily for the smoking or ingestion of tobacco products.
- (7) Tobacco accessories shall also mean novelty cigarette lighters that resemble toy-like shapes of cars, cartoon characters, toys, animals, fire hydrants and the like.
- (8) Smoking herbs shall mean all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use of smoking materials.
- (9) Bidi cigarette means a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Department of Health that is similar in appearance or characteristics to the temburni or tendu leaf.

Sec.22-333.1. Sale of Tobacco Products Other than in Sealed Packages

- (a) No retailer may break or otherwise open any cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum cigarette package size of 20 cigarettes or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

Sec. 22.333.2. Distribution of Tobacco Product Samples Prohibited

- (a) No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, sidewalk, or in any public park, ground or playground or other property owned by the Village, or in areas open to the public, in any publicly owned or operated building, or at any place located within 100 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age.

Sec. 22.333.3. Prohibited Locations.

- (a) No retailer shall sell or distribute tobacco products at any place located within 100 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age. This prohibition shall not apply to those businesses engaged in the retail sale of tobacco products at a location that would otherwise be prohibited by the Ordinance that were in existence prior to the passage of this Ordinance. This exemption shall apply to any new owner at the same location providing the same services.
- (b) It shall be unlawful to sell, offer for sale, give away, or display tobacco products for sale at any location where the consumer can acquire those products through self-service. All tobacco products will be displayed from behind a sales/service counter so that no consumer can access tobacco products without assistance by an employee of the licensee. This shall not apply to customer self-service from vending machines as described in this Ordinance.

Sec. 22.333.4. Restrictions on Tobacco Product Vending Machines.

- (a) No licensee shall sell or offer for sale, give away, deliver or keep with the intention of selling, giving away or delivering, tobacco products by use of a vending machine, unless the 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 18 years.

Sec. 22.333.5. Posting of Warning to Minors

- (a) Every retailer of tobacco products shall place and maintain, in legible condition, at each point of sale of tobacco products to consumers, including the front of each vending machine, a sign stating:

**WARNING – IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR
OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF 18**

The sign shall not be less than eight (8) inches by eleven (11) inches in size, except for a sign place on the front of a vending machine. The sign for a vending machine shall not be less than four (4) inches by four (4) inches in size. The text of such printed card shall be in red letters on a white background, said letters to be at least one inch high.

Sec. 22.333.6. Minimum Age to Sell Tobacco Products

- (a) It shall be unlawful for any retailer to permit any person under eighteen (18) years of age to sell tobacco products in any licensed establishment.

Sec. 22.333.7. Administration and Enforcement

- (a) The Village President shall be charged with the administration of this Ordinance.
(b) The President may suspend any license issued under the provisions of this Ordinance if it is determined that the licensee has violated any of the provisions hereof.
(c) Any person who violates any provision of this Ordinance shall be fined not less than \$200.00 nor more than \$500.00 for each offense. A separate offense shall be deemed committed on each day during or on which the violation occurs or continues.
(1) A second finding of violation within a twelve (12) month period, a mandatory thirty (30) day tobacco license suspension, and any fine determined by the Village President, shall be imposed.
(2) A third finding of violation within a twelve (12) month period, a mandatory license suspension of sixty (60) days to one (1) year, and any fine determined by the Village President shall be imposed.
(d) Notice of Hearing
(1) No tobacco vendor license issued pursuant to this Ordinance shall be suspended and no licensee shall be fined except after a public hearing by the President, with a seven (7) day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provisions shall begin the day following delivery by certified mail or personal service.
(e) President's Decision
(1) The President shall, within fourteen (14) days after such hearing, if it has been determined after such hearing that the license should be suspended, or that the licensee should be fined, state the reason for such determination in a written order and either the amount of the fine, the period of suspension and serve a copy of such order within the fourteen (14) days upon the licensee.
(f) Fees
(1) Any licensee determined by the President to have violated any of the provision of this Ordinance shall pay to the Village the costs of the hearing before the President on such violation. The President shall determine the cost incurred by the Village for said hearing, including, but not limited to, court reporter's fees, the cost of transcripts or records, attorney's 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 President may allow. The licensee shall pay said costs to the Village within fourteen (14) days of notification of the costs by the President. Failure to pay said cost within

fourteen (14) days of notification is a violation of this Ordinance and may be cause for license suspension or revocation or the levy of a fine.

(g) Use of Premises After License Revocation

(1) When any license shall have been suspended for any cause, no license shall be granted to any person for the period of the suspension, for the conduct of business of selling tobacco products in the premises described in such license.

(h) Responsibility of Licensee for Agents and Employees

(1) Every act or omission constituting a violation of any of the provisions of this Ordinance 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.

Section 3. Home Rule. This ordinance is enacted under the Home Rule powers of the Village as set forth in the Constitution and laws of the State of Illinois.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication in the manner provided by law.

Section 5. Conflicts. This Ordinance supersedes all ordinances or parts of ordinances directly conflicting with the terms and provisions contained herein, but only to the extent of such conflict.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 7. Certification and Publication. The Village Clerk of the Village of Stickney shall certify to the adoption of this Ordinance and cause the same to be published in pamphlet form.

PASSED AND APPROVED at a regular meeting of the President and the Board of Trustees of the Village of Stickney, Illinois this 21st day of June, 2011

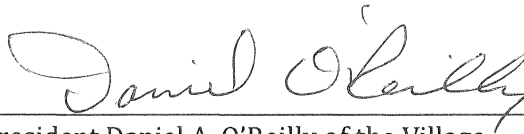
AYES: Trustees Mares, Morelli, Schimel, Walik and Zeedyk

NAYS: _____

ABSENT: Trustee White

ABSTAIN: _____

APPROVED by me this 22nd day of June, 2011



President Daniel A. O'Reilly of the Village
of Stickney, Cook County, Illinois

ATTESTED, Filed in my office,
and published in pamphlet form
this 22nd day of June, 2011



Audrey McAdams
Clerk of the Village of Stickney, Cook County, Illinois