
**VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS**

ORDINANCE NO. 19 - 02

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 4.28, ARTICLE 26 OF THE
VILLAGE OF HARWOOD HEIGHTS CODE TO INCREASE THE MINIMUM AGE
FOR TOBACCO, ELECTRONIC CIGARETTES, AND ALTERNATIVE NICOTINE
PRODUCTS TO 21 AND TO FURTHER REGULATE THE SALE, POSSESSION AND
USE OF ELECTRONIC CIGARETTES AND ALTERNATIVE NICOTINE PRODUCTS
AND ENHANCING PENALTIES FOR VIOLATIONS**

Passed by the Board of Trustees, April 11, 2019

Printed and Published, April 11, 2019

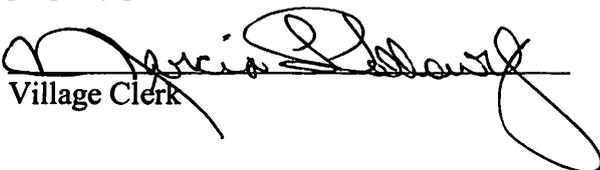
Printed and Published in Pamphlet Form
By Authority of the Village Board of Trustees

VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS

ARLENE C. JEZIERNY, MAYOR
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I hereby certify that this document was
properly published on the date stated above.


Village Clerk

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AN ORDINANCE AMENDING TITLE 4, CHAPTER 4.28, ARTICLE 26 OF THE VILLAGE OF HARWOOD HEIGHTS CODE TO INCREASE THE MINIMUM AGE FOR TOBACCO, ELECTRONIC CIGARETTES, AND ALTERNATIVE NICOTINE PRODUCTS TO 21 AND TO FURTHER REGULATE THE SALE, POSSESSION AND USE OF ELECTRONIC CIGARETTES AND ALTERNATIVE NICOTINE PRODUCTS AND ENHANCING PENALTIES FOR VIOLATIONS

WHEREAS, the Village of Harwood Heights (the “Village”) is an Illinois municipal corporation organized and operating pursuant to authority granted by the Constitution and Laws of the State of Illinois;

WHEREAS, the Village is a home rule unit of government pursuant to Section 6(a), Article VII of the 1970 Illinois Constitution;

WHEREAS, pursuant to its home rule power, the Village may exercise any power and perform any function relating to its government and affairs;

WHEREAS, the Village regulates the retail sale and purchase of tobacco products and alternative nicotine products pursuant to Title 4, Chapter 4.28, Article 26 of the Village Code;

WHEREAS, the Village has previously prohibited the sale to, possession and use of tobacco and alternative nicotine products, such as electronic cigarettes, by persons under eighteen (18) years of age; and

WHEREAS, alternative nicotine products and electronic cigarettes are gaining popularity and being used by persons under eighteen (18) years of age; and

WHEREAS, studies show that the use of such alternative nicotine products and electronic cigarettes are harmful to the human body; and

WHEREAS, research suggests that nicotine can affect brain development in children and teenagers; and

WHEREAS, the Village Board has determined that it will serve and advance the public's health, safety and welfare and be in the best interest of the Village and its residents, to amend the Village Code to further define and clarify "alternative nicotine products" and "electronic cigarettes" to ensure that vaporizers and all types of electronic nicotine delivery systems are included within the Village's prohibitions on the sale, purchase, possession and use of tobacco and alternative nicotine products within the Village, to or by underage persons in order to combat the dangers associated with vaping; and

WHEREAS, recent studies indicate that 95 percent of all adult smokers started smoking before they turned 21 years old; and

WHEREAS, studies also indicate that people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age;

WHEREAS, rates of tobacco and alternative nicotine products have decreased significantly in jurisdictions for which the minimum sales age for tobacco products has been increased to 21 years old; and

WHEREAS, the State just enacted Public Act 101-0002, creating 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. (the "Act"), which raises the minimum age for purchasing and possessing tobacco and alternative nicotine products to 21 years of age, effective July 1, 2019; and

WHEREAS, the Village Board has determined that it will serve and advance the public's health, safety and welfare and be in the best interest of the Village and its residents, to amend the Village Code to increase the minimum age for the sale, purchase and possession of tobacco products and alternative nicotine products to 21 years of age and establish local penalties for

violations thereof.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Harwood Heights, County of Cook, Illinois, as follows:

SECTION 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

SECTION 2. Amendments.

Title 4 (“Business Licenses and Regulations”), Chapter 4.28 (“Other Businesses”), Article 26 (“Tobacco Dealers”) of the Harwood Heights Village Code of Ordinances, shall be, and hereby is, amended as follows (additions **underlined in bold font**, deletions marked with ~~strikethrough~~):

Article 26. - Tobacco **and Alternative Nicotine Products** Dealers

4.28.1240 - Title, limitations and compliance.

- A. Title. This article shall be known as the "Comprehensive Regulation of Tobacco, **Electronic Cigarettes, and Alternative Nicotine** Products Ordinance" of the village.
- B. Limitations. If there is any provision of any other ordinance of this village which is in conflict with any provision of this article, this article shall control.
- C. Compliance with State Code. Whenever the rules and regulations governing the regulation of tobacco, **electronic cigarettes, and alternative nicotine** products promulgated by the state of Illinois are more restrictive than this article, the more restrictive standards shall control.

4.28.1250 - Legislative findings and declaration.

The president and village board of trustees expressly find and declare that:

A.

1. Cigarette smoking is dangerous to human health,
2. There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and various other medical disorders,
3. The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in this country,
4. The Director of the National Institute on Drug Abuse concluded that the majority of the three hundred twenty thousand (320,000) Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent,
5. The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug user, ~~and~~
6. The present legislative scheme of prohibiting sales of tobacco products to persons under the age of eighteen (18) has proven ineffective in preventing such persons from using tobacco products,
7. **Alternative nicotine products and electronic cigarettes, as defined in this Article, are gaining popularity and are being used by young people; and**
8. **Alternative nicotine products and electronic cigarettes are addictive and harmful to the human body.**

B. That the enactment of this article directly pertains to, and is in furtherance of the health, welfare and safety of the residents of the village, particularly those residents under ~~eighteen (18)~~ **twenty-one (21)** years of age.

4.28.1260 - Definitions.

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

"Alternative nicotine product" means any product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. ~~Alternative tobacco products specifically include "e-cigarettes," as defined in this section.~~ The term "alternative nicotine product" excludes any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a

tobacco use cessation product or for other medical purposes, and is being marketed and sold solely for that approved purpose.

"Electronic cigarette" or "e-cigarette" means:

- (1) Any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;**
- (2) Any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or**
- (3) Any solution or substance, whether or not it contains nicotine intended for use in the device, any electronically-operated device which may or may not contain nicotine in a combination with other chemicals that are intended to be inhaled as a vapor by the user**

The term "electronic cigarette" or "e-cigarette" includes, intended to include, without limitation, any electronic nicotine delivery system, vapes, vaporizers, vape pens, vapor cigarettes, alternative vapor transmission modalities, e-cigars, hookah pens, electronic hookahs, electronic pipes, electronic cigars, and electronic cigarillos and any similar product or device, and any components or parts that can be used to build the product or device. and any other inhaled nicotine delivery system

"Tobacco products" means any ~~products~~substance containing **or made from tobacco leaf that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, 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 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., including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.**

"Vape" or "Vaping" means the use of an alternative nicotine product to inhale and/or exhale any smoke, vapor, or other substance other than those produced by unenhanced human exhalation.

"Vapes," "Vaporizers," "Vape Pens," "Vapor Cigarettes," and "Alternative Vapor Transmission Modalities" are electronically-operated devices which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user.

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

4.28.1270 - License required.

It is unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, or to give away or deliver any tobacco product, **electronic cigarette or alternative nicotine product** within the village without having first obtained a tobacco dealer's license therefor pursuant to this article.

Such license shall be in addition to any other license required by this code.

4.28.1280 - License application.

Application for a license hereunder shall be made in writing to the village clerk and shall be processed in accordance with the provisions of Chapters 4.04 and 4.08 of this code.

4.28.1290 - License fee.

The license fee for a tobacco dealer's license shall be as set forth in Section 4.08.010(13) of this code.

4.28.1300 - Prohibited sales and delivery—Signs.

- A. It is unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco, **electronic cigarettes**, and/or alternative nicotine products to any person under the age of ~~eighteen (18)~~ **twenty-one (21)** years.
- B. Signs informing the public of the age restrictions provided herein shall be posted by every licensee at or near every display of tobacco, **electronic cigarettes**, and/or alternative nicotine products and on or upon every vending machine which offers tobacco and/or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

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

The text of such signs shall be in red letters on a white background; the letters are to be a minimum of one inch in height.

C. 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 21 years of age by examining from any person that appears to be under 30 years of age a government-issued photographic identification that establishes the person to be 21 years of age or older.

D. Penalties for violation(s) of this Section shall be as set forth in Section 4.28.1380.

4.28.1310 - Minimum age to sell tobacco and/or alternative nicotine products.

It is unlawful for any licensee or any 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, **electronic cigarettes**, and/or alternative nicotine products in any licensed premises. **Penalties for violation(s) of this Section shall be as set forth in Section 4.28.1380.**

4.28.1320 - Purchase by ~~minors~~ **persons under 21 years old** prohibited.

It is unlawful for any person under the age of ~~eighteen (18)~~ **twenty-one (21)** years of age to purchase tobacco products, **electronic cigarettes**, and/or alternative nicotine products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products. **Any person found liable for violating this Section shall be fined \$100.00 per violation.**

4.28.1330 - Possession by ~~minors~~ **persons under 21 years old** prohibited.

It is unlawful for any person under the age of ~~eighteen (18)~~ **twenty-one (21)** years to possess any tobacco product, **electronic cigarettes**, and/or alternative nicotine product; provided, that the possession by such a person under the direct supervision of his or her parent or guardian in the privacy of the parent's or guardian's home shall not be prohibited. **Any person found liable for violating this Section shall be fined \$50.00 per violation.**

4.28.1340 - Proximity to certain institutions.

It is unlawful for any person to sell, offer for sale, give away or deliver tobacco products, **electronic cigarettes, or alternative nicotine products** within one hundred (100) feet of any school, child care facility or other building used for educational or recreational programs for ~~minors~~ ~~persons under the age of eighteen (18) years~~. **Penalties for violation(s) of this Section shall be as set forth in Section 4.28.1380.**

4.28.1350 - Certain free distributions prohibited.

It is unlawful for any licensee any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, **electronic cigarettes, or alternative nicotine products**, or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products, **electronic cigarettes, or alternative nicotine products** free of charge to any person on any right-of-way, park, playground or other property owned by the village, or upon any school district, public library or other park district property. **Penalties for violation(s) of this Section shall be as set forth in Section 4.28.1380.**

4.28.1360 - Vending machines—Locking devices.

- A. It is unlawful for any licensee to sell or offer for sale, give away, deliver, or keep with the intention of selling, giving away or delivering tobacco products, **electronic cigarettes, or alternative nicotine products** by use of a vending machine, unless such vending machine is equipped with a manual, electric, or electronic locking device controlled by the licensee, so as to prevent its operation by persons under the age of ~~eighteen (18)~~ **twenty-one (21)** years. **Penalties for violation(s) of this section shall be as set forth in Section 4.28.1380.**
- B. Any premises where access by persons under the age of ~~eighteen (18)~~ **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 a business located at such premises be exempt from the requirements of subsection A of this section.

4.28.1370 - Responsibility for agents and employees.

Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this article by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

4.28.1380 - Suspension/revocation of license—Fines—Costs.

The mayor shall be charged with the administration of this article. The mayor may suspend or revoke any license issued under the provisions of this article, if he or she determines that the licensee has violated any provision whatsoever. In lieu of suspension or revocation of a license, the mayor may instead levy a fine on the licensee. The fine imposed shall ~~not exceed~~ be five hundred dollars (\$500.00) for the first each-violation of any provision of this Article within a rolling twelve (12) month period from the date of the first violation, seven hundred fifty dollars (\$750.00) for a second violation of any provision of this Article within a rolling twelve (12) month period from the date of the first violation, and one thousand dollars (\$1,000.00) for a third or subsequent violation of any provision of this Article within a rolling twelve (12) month period from the date of the first violation. Each day on which a violation continues shall constitute a separate violation.

~~However,~~ No such license shall be suspended or revoked and no licensee shall be fined except after a public hearing by the mayor with a seven-day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven-day notice provision shall begin the day following delivery of the notice by certified mail or personal service.

The mayor shall, within seven days after such hearing, if he or she determines that the license should be revoked or suspended, or that the licensee should be fined, state the reason for such determination in a written order that shall further state either the amount of the fine, length of the suspension, or that the license has been revoked and serve a copy of such order within seven days upon the licensee.

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

The licensee shall pay such costs to the village within thirty (30) days of notification of the costs by the mayor. Failure to pay the costs within the prescribed period of time is a violation of this article and may be cause for the suspension or revocation of the license or the levy of an additional fine.

The terms and provisions of the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.) shall apply to all orders of the city which revoke or suspend any tobacco dealer's license and/or impose a monetary fine or other penalty, as provided for in this article.

4.28.1390 - Use of premises after revocation.

When any license shall have been revoked for any cause whatsoever, no license shall be granted to the licensee for a period of six months thereafter for the conduct of the business of selling tobacco products, electronic cigarettes, or alternative nicotine products as defined in Section 4.28.1270 in the premises described for such revoked license.

~~4.28.1400 — Penalties for violation — Under eighteen years.~~

~~Violations with respect to either the purchase or possession of by persons under eighteen (18) years of age shall be met with the following penalties:~~

| | |
|---------------------------------|-------------------------------|
| A. Purchase | |
| —(Section 4.28.1320) | \$50.00/violation. |
| B. Possession | |
| —(Section 4.28.1330) | \$25.00/violation. |

SECTION 3. RESOLUTION OF CONFLICTS.

All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. SAVING CLAUSE.

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance, which are hereby declared to be separable.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective May 1, 2019, after its passage, approval, and publication in the manner provided by law.

VOTES

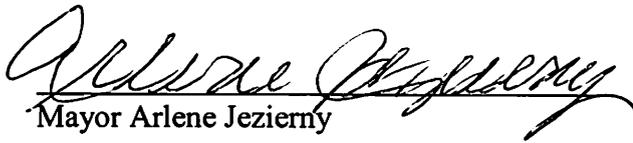
AYES: Trustee Schuepfer, Steiner, Brzezniak-Volpe, Brzozowski-Wegrecki, Zerillo, Lewandowski

NAYS:

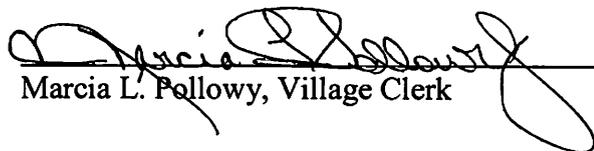
ABSENT:

ABSTAIN:

Passed and Approved this 11th day of April, 2019.


Mayor Arlene Jezierny

ATTEST:


Marcia L. Pollowy, Village Clerk

STATE OF ILLINOIS

COUNTY OF COOK

CERTIFICATION

I, Marcia L. Pollowy, do hereby certify that I am the duly elected and acting Clerk of the Village of Harwood Heights, County of Cook, State of Illinois.

I do further certify that the foregoing Ordinance 19-02 entitled:

AN ORDINANCE AMENDING TITLE 4, CHAPTER 4.28, ARTICLE 26 OF THE VILLAGE OF HARWOOD HEIGHTS CODE TO INCREASE THE MINIMUM AGE FOR TOBACCO, ELECTRONIC CIGARETTES, AND ALTERNATIVE NICOTINE PRODUCTS TO 21 AND TO FURTHER REGULATE THE SALE, POSSESSION AND USE OF ELECTRONIC CIGARETTES AND ALTERNATIVE NICOTINE PRODUCTS AND ENHANCING PENALTIES FOR VIOLATIONS

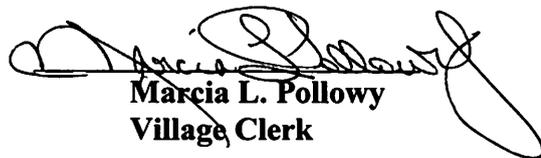
Is true and correct copy of an Ordinance adopted by the Board of Trustees of the Village of Harwood Heights at a meeting held on the 11th day of April, 2019.

I do further certify that the original of which the foregoing is a true copy is entrusted to my care and safekeeping, and that I am keeper of the same.

I do further certify that I am the keeper of the records, ordinances, and resolutions of said Village of Harwood Heights, Cook County, Illinois.

In witness whereof I have hereunto set my official hand and seal this 12th day of April, 2019.




Marcia L. Pollowy
Village Clerk

DECLARATION

I, the undersigned, do hereby declare that the above is a true and correct copy of the original as shown to me by the person who produced it to me.

Witness my hand and seal this 1st day of August 1950.

Notary Public for the State of Illinois
My Commission Expires August 1, 1951

Notary Public for the State of Illinois
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[Handwritten signature]

