
VILLAGE OF ALSIP
COOK COUNTY, ILLINOIS

ORDINANCE
NUMBER 2019-7-6

**AN ORDINANCE AMENDING CHAPTER 12, LICENSES, PERMITS AND
BUSINESS REGULATIONS, ARTICLE XIX, TOBACCO PRODUCTS, OF
THE MUNICIPAL CODE OF THE VILLAGE OF ALSIP**

JOHN D. RYAN, Mayor
SUSAN M. PETZEL, Village Clerk

RICHARD S. DALZELL
MICHAEL ZIELINSKI
MONICA JUAREZ
CHRISTINE L. McLAWHORN
CHRISTOPHER W. MURPHY
CATALINA NAVA-ESPARZA
Trustees

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BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Alsip, as follows:

Section 1. That Chapter 12, Licenses, Permits and Business Regulations, of the Municipal Code of Alsip, be amended by changing Article XIX, Tobacco Products, to read as follows:

ARTICLE XIX – TOBACCO AND RELATED PROUDCTS

Sec. 12-391. - Definitions.

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

Adult-only facility means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe (such as by checking identification as required under State law, or by checking the identification of any person appearing to be under the age of 30 that no person under legal age is present. A facility or restricted area need not be permanently restricted to persons under 21 years of age to constitute an adult-only facility, provided that the operator ensures or has a reasonable basis to believe that no person under 21 years of age is present during the event or time period in question.

Age restricted area means a signed designated area in a retail establishment to which persons under 21 years of age are not permitted access unless accompanied by a parent or legal guardian.

Alternative nicotine product means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Alternative nicotine product does not include: cigarettes as defined in Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; tobacco product and electronic cigarette as defined in this Section; 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.

Electronic 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. 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 as defined in Section 1 of the Cigarette Tax Act and tobacco products as defined in Section 10-5 of the Tobacco Products Tax Act of 1995; tobacco product and alternative nicotine product as defined in this Section; 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.

Line of sight means visible to a cashier or other employee.

Lunch wagon means a mobile vehicle designed and constructed to transport food and from which food is sold to the general public.

Nicotine means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

Smokeless tobacco means any tobacco products that are suitable for dipping or chewing.

Smoking herbs means 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 as smoking materials.

Tobacco accessories means 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 or of substances made illegal under any statute or of substances whose sale, gift, barter, or exchange is made unlawful hereunder.

Tobacco product means any product containing or made from tobacco 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: an electronic cigarette and alternative nicotine product as defined in this Section; 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.

Sec. 12-392. - License required.

It shall be unlawful to sell or offer for sale, at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products, electronic cigarette, alternative nicotine products, tobacco accessories or smoking herbs 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. Application for a license hereunder shall be made in writing, to the building department.

Sec. 12-393. - Warning signs.

Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco products, electronic cigarettes, alternative nicotine products, tobacco accessories, and smoking herbs and on or upon every vending machine which offers those products for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS, ELECTRONIC CIGARETTES, ALTERNATIVE NICOTINE PRODUCTS, TOBACCO ACCESSORIES, AND SMOKING HERBS TO PERSONS UNDER 21 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.

The text of such signs shall be in red letters on a white background; the letters to be at least one inch high. Such signs shall be posted in a conspicuous place upon the premises or vending machine as the case may be.

Sec. 12-394. – Age Restrictions.

(1) No person, including any licensee, shall sell, offer for sale, give away or deliver any tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb to any person under the age of 21 years.

(2) No licensee or any officer, associate, member, representative, agent or employee of such licensee under 18 years of age may sell any tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb in a licensed premises. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(3) Before selling, offering for sale, giving, or furnishing a tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb to another person, the person selling, offering for sale, giving, or furnishing the tobacco product, electronic cigarette, alternative nicotine product, smoking accessory or smoking herb 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.

(4) The sale or distribution by any person of a tobacco product, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(5) All single packs of tobacco products, electronic cigarettes, alternative nicotine products, tobacco accessories and smoking herbs must be sold from behind the counter or in an age restricted area or in a sealed display case. Any other tobacco products must be sold in line of sight. The restrictions described in this subsection do not apply to a retail tobacco store that (a) derives at least 90% of its revenue from tobacco and tobacco related products; (b) does not permit persons under the age of 21 to enter the premises unless accompanied by a parent or legal guardian; and (c) posts a sign on the main entrance way stating that persons under the age of 21 are prohibited from entering unless accompanied by a parent or legal guardian. This subsection does not prohibit the sale of tobacco products, electronic cigarettes, alternative nicotine products, tobacco accessories and smoking herbs from vending machines if the location of the vending machines are otherwise in compliance with the provision of this Article.

(6) Unless otherwise expressly permitted by State law, no person under 21 years of age shall buy, purchase, or possess any tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb.

Sec. 12-395. - Certain free distributions prohibited.

No person shall distribute without charge samples of any tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herbs to any other person, regardless of age. This subsection does not apply to the distribution of a tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb sample in any adult-only facility.

Sec. 12-396. - Location restrictions.

No person sell, offer for sale, give away or deliver any tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb within 100 feet of any school, child care facility or other building used for education or recreational programs for persons under the age of 18 years.

Sec. 12-397. - Vending machines.

No tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb may be sold through a vending machine except if such tobacco product, electronic cigarette, alternative nicotine product, tobacco accessory or smoking herb is not placed together with any non-tobacco product, other than matches, and only if the vending machine is in any of the following locations: (a) places to which persons under 21 years of age are not permitted access at any time. (b) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.

Sec. 12-398. - Responsibility of licensee 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 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.

Sec. 12-399. – Penalties and Administration.

(1) Any person found in violation of any provision of this Article shall be fined not less than two hundred \$200 not more than \$1,000 for each offense. Each day a violation continues shall constitute a separate and distinct offense.

(2) Any licensee found in violation of the provisions of this Article shall, in addition to any fine that may be imposed, be subject to license suspension and/or revocation proceedings.

(3) Violations of this Article may be administered in accordance with the provisions of Chapter 23, Administrative Adjudication of Charges of Municipal Code Violations, of the Municipal Code for the Village of Alsip.

Section 2. Home Rule. This ordinance is enacted pursuant to the home rule powers of the Village of Alsip.

Section 3. Severability. 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.

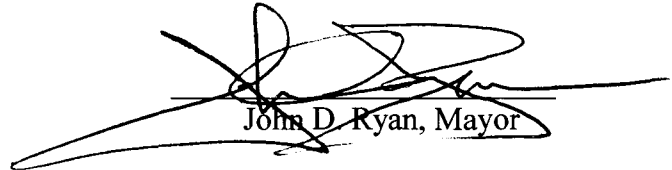
Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

Section 5. Effective Date. This ordinance shall be immediately in full force and effect after passage and approval as provided by law. This ordinance is authorized to be published in pamphlet form.

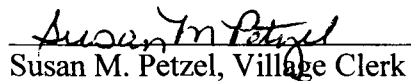
PASSED by the Mayor and Board of Trustees of the Village of Alsip, Cook County, Illinois on July 15, 2019 by the following roll call vote:

	YES	NO	ABSENT	ABSTAIN
DALZELL	X			
ZIELINSKI	X			
JUAREZ	X			
McLAWHORN	X			
MURPHY	X			
NAVA-ESPARZA	X			
MAYOR RYAN				
TOTAL	6	0	0	0

APPROVED:


John D. Ryan, Mayor

ATTEST:


Susan M. Petzel, Village Clerk

I DO HEREBY CERTIFY that this ordinance was, after its passage and approval, published in pamphlet form by the authority of the Village of Alsip, in accordance with law, this 15th day of July, 2019.


Susan M. Petzel, Village Clerk