

**VILLAGE OF THIRD LAKE
LAKE COUNTY, ILLINOIS
THIRD LAKE, ILLINOIS**

ORDINANCE NO. 21-06-03

**AN ORDINANCE PROVIDING FOR THE LICENSING AND
REGULATING OF CERTAIN BUSINESSES, ESTABLISHING THE FEES
THEREFOR AND REPEALING ORDINANCE NO. 09-05-01**

**BOARD OF TRUSTEES
VILLAGE OF THIRD LAKE, ILLINOIS**

This 21st day of June 2021



Michelle Smith, Village Clerk

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AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATING OF CERTAIN BUSINESSES, ESTABLISHING THE FEES THEREFOR AND REPEALING ORDINANCE NO. 09-05-01

BE IT ORDAINED by the President and Board of Trustees of the Village of Third Lake, Lake County, Illinois, as follows:

SECTION ONE: PURPOSE AND JURISDICTION

Because each business located in the Village of Third Lake is a basic part of and affects the physical and economic well-being of the Village, necessitating special services from the Village in the form of health and police inspections and services, such businesses shall in all respects be in full compliance with the provision hereinafter contained in this Ordinance. This Ordinance is designed to provide for the means whereby the Village may render the necessary inspections and services to businesses in order to promote, protect and safeguard the public safety, health, and welfare of the citizens of Third Lake and to enable the maintenance of an accurate record of businesses located and carrying on commercial activities or commerce within the Village.

SECTION TWO: DEFINITIONS

The following words and phrases as used in this Ordinance shall have the following meaning, unless a different meaning is required by the context:

Business. Any vocation, occupation, profession, enterprise, establishment, concern, or any other type of activity, together with all devices, machines, equipment, vehicles, and appurtenances used therein, as set forth in Section Nine hereof.

Person. Any individual, firm, association, partnership, corporation, trust, or any other legal entity, except for such person or persons as may be organized as an Illinois not-for-profit corporation or governmental bodies properly organized under the law of the State of Illinois.

SECTION THREE: LICENSE REQUIRED

It shall be unlawful for any person to conduct, engage in, maintain, operate, carry on, or manage any business, either by themselves, or through an agent, employee, or partner, without first having obtained a license for such business. A license is required when any person, by themselves or through an agent, employee, or partner, is held forth as being engaged in the

business, or if he solicits patronage therefor, actively, or passively, or if he performs or attempts to perform any part of such business in the Village.

If any business falls into more than one of the categories requiring a license under this Ordinance, a separate license shall be obtained for each category.

A license shall not be required for any amusement, entertainment or exhibition given by residents of the Village who are not engaged therein as a business for personal profit or gain and the proceeds of which are exclusively for the benefit of a charitable organization registered with the Illinois Attorney General pursuant to the Solicitation for Charity Act (225 ILCS 460/0.01 *et seq*)

SECTION FOUR: APPLICATION

Applications for all licenses required by this Ordinance shall be made in writing to the Village President or a designee, except as may otherwise be provided by this Ordinance. If the applicant is an individual, the application shall contain the individual's name, residential address, and residential telephone number. If the applicant is a partnership or other noncorporate business entity, the application shall contain the name and residential address and residential telephone number of each partner, principal, or member thereof. If the applicant is a corporation, the application shall contain the name, residential address, and residential telephone number of each principal officer and the registered agent thereof. Each application shall also contain such information as may be prescribed by the Village President or a designee including, but not limited to:

- A. The license desired.
- B. The location to be used.
- C. The license periods.
- D. The fee to be paid.
- E. The number of the certificate of registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable; and
- F. Such additional information as may be needed for the evaluation of the application.

Forms for all licenses and applications therefor shall be prepared and kept on file by the Village Clerk. Each license issued shall bear the signature of the Village President and the Village Clerk, except as may otherwise be provided by this Ordinance.

SECTION FIVE: INVESTIGATIONS AND INSPECTIONS

A. Investigation of Applicant:

1. Upon the receipt of an application for a license, where an investigation or inspection is required by this Ordinance before the issuance of such license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Village President or a designee shall make such an investigation within ten (10) days after receiving such application.
2. If it shall appear to the Village President or a designee that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the applicant for the inclusion of such additional information as may be specified by the Village President or a designee.

B. Inspection Officials: The Zoning Officer of the Village, or other authorized Village official, in consultation with the Lake County Health Department, shall make or cause to be made inspections regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of the health of the public. The Zoning Officer of the Village, or other authorized Village official, shall make or cause to be made any inspections, which relate to compliance with the Building Code, Zoning Ordinance, and other related regulations. All other investigations, except where otherwise provided, shall be made by any officer, employee or agent designated by the Village President or a designee.

C. Inspections; Analyses:

1. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by this Ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the Village or to detect violation thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of the Village who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.
2. Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of the Village requesting the same sufficient samples of such material or commodity.
3. In addition to any other penalty which may be provided, the Village President

may revoke the license of any owner or operator of a licensed business in the Village who refuses to permit any duly authorized officer or employee to make such inspection or to take an adequate sample of said commodity or material, or who interferes with such officer or employee while in the performance of their duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of the Village after first having presented a warrant issued by the appropriate Circuit Court authorizing such entry.

4. In order to facilitate proper inspection in keeping with the provisions of this subsection, any official, sanitarian, inspector or other employee or person designated to make such inspections under the supervision of the Lake County Health Department shall be considered to be an officer or official of the Village of Third Lake for such purpose and for any purpose relative to the provision of this Ordinance but for no other purpose unless so designated by this Ordinance.

SECTION SIX: ISSUANCE OR DENIAL OF LICENSE

If, after due consideration of the information contained within the application and the related investigative report, the Village President or a designee determines that the applicant does not meet the standards set forth in this Ordinance, such license shall be denied. Thereupon, the Village President or a designee shall promptly notify the applicant that no license will be issued, indicating the reasons therefor.

If, after due consideration of the information contained within the application and the related investigative report, the Village President or a designee determines that the applicant meets the standards set forth in this Ordinance, such license shall be granted and the Village President or a designee shall notify the applicant thereof.

SECTION SEVEN: LICENSE TERM, EXPIRATION, RENEWAL

Each license shall indicate its term. All annual licenses shall be operative, and the license year for the Village shall commence, on the first day of May of each year. No license shall be granted for a period longer than one (1) year. Except where otherwise provided herein, every license shall expire on the 30th day of April following the date of issuance.

Except as otherwise provided herein, each license may be renewed upon proper application and payment of the required fee. The requirements and procedures for granting and issuing a license renewal shall be the same as the requirements and procedures for granting a new license.

SECTION EIGHT: LICENSES NOT ASSIGNABLE; UNLAWFUL USE

No license may be assigned, sold, loaned, transferred, used as collateral, or otherwise encumbered. No person shall use or display any license that has been improperly acquired. No person shall alter, deface, forge, or counterfeit any license issued by the Village.

SECTION NINE: LICENSE FEES

- A. **Payment of License Fees:** In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Village President or a designee in the amounts prescribed in this Section. There shall be a late charge of \$25.00 imposed in connection with any license required under this Ordinance for any application submitted after May 1 of any year and said late charge shall increase by an additional \$25.00 for every thirty (30) days after May 1 that any application is submitted. Notwithstanding the foregoing, no late charge shall be imposed in connection with any application pursuant to this Ordinance if the application is made, and the license is issued, prior to the commencement of the licensed business activity.

Except as otherwise provided, all license fees shall become a part of the general corporate fund to reimburse said Fund for the costs incurred in investigations and processing applications for the licenses required herein, and for the costs of regulating the subject businesses. In no event shall any rebate or refund be made of any license fee, or part thereof, by reason of death or departure of the licensee; nor shall any rebate or refund be made by reason of nonuse of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

- B. **Fee Schedule:** License fees under the terms of this Ordinance for the businesses located in CB and GB Zoning shall be set forth as fifty dollars (\$50) as follows:
1. Amusements
 2. Automotive washing facilities
 3. Auto, motorcycle, watercraft (new or used) sales
 4. Barber shops and salons, spas
 5. Bankers, Brokers, Management, Insurance and Real estate
 6. Breweries, Distilleries and Bars
 7. Convenience store
 8. Drycleaners
 9. Florist and plant shops
 10. Food establishments
Bakeries, Candy, Confectionery stores, Catering services,
Coffee houses, Delicatessens, Fish markets, Grocery, Ice
cream and Restaurants.
 11. Fuel Station
 12. Service station (auto, boat, cycle)

13. General Retail
14. General Service
15. Hospital
16. Hotel, Motel
17. Medical and Counselling Offices, Medical Supplies, Pharmacy
18. Nursing homes, Assisted Living
19. Resale establishments
20. Tobacco, vapor products and accessories
21. Any unidentified business

C. Contractors Fees: License fees under the terms of this Ordinance for the contractors doing business in the Village of Third Lake shall be set forth as twenty dollars (\$20) for the following contractors:

1. Plumber
2. Roofer

D. Garbage and refuse: One Hundred Dollars (\$100)

1. Residential service or Commercial service

SECTION TEN: FOOD ESTABLISHMENTS

- A. All food and beverages prepared, stored, served, sold, or offered for sale in any food establishment licensed hereunder shall at all times be wholesome, free from spoilage, and safe for human consumption.
- B. All employees of such food establishments shall always wear clean outer garments and shall keep their hands clean while handling food or beverages.
- C. All dishware, silverware, glassware, and other multi-use utensils used in food establishment shall be thoroughly cleaned and disinfected after each use.
- D. Kitchens and other places where food and beverages are prepared and stored, together with all equipment used therein, shall be maintained in a clean and sanitary condition.

SECTION ELEVEN: FOOD REFRIGERATION AND STORAGE

The lockers in food refrigeration shall be maintained in a clean, sanitary condition and the temperatures maintained therein shall be adequate to keep the food stored therein free from spoilage.

SECTION TWELVE: HOTEL and MOTELS

Sleeping rooms in hotels and motels, together with furniture, furnishings, fixtures, mattresses, and linens used therein, shall be maintained in a clean and sanitary condition.

SECTION THIRTEEN: FLAMMABLE AND COMBUSTIBLE MATERIALS

All gasoline, flammable liquids and gases, dry cleaning chemicals and other highly volatile or flammable substances stored in any business shall be kept in tanks, barrels, drums, or other containers which are properly constructed and maintained in good condition so as to prevent fires, explosions, or other hazards to the safety of persons and property in the vicinity thereof. Combustible materials shall be kept away from heating and other equipment with open flames so as to prevent fires or other hazards to the safety of persons and property in the vicinity thereof. No smoking shall be permitted in close proximity to such materials and "No Smoking" signs shall be conspicuously displayed in such areas. Each business storing such materials shall be equipped with one or more fire extinguishers as needed.

SECTION FOURTEEN: CONTRACTORS

Contractors licensed hereunder shall maintain their equipment and work areas in a safe condition. All debris shall be contained on the site and disposed of routinely. All openings and excavations shall be well marked or covered. Curbs and sidewalks shall be planked sufficiently to prevent damage before any heavy equipment is moved across them. Dirt or mud that is dragged into public streets must be cleaned daily. All contractors licensed hereunder must show proof of licensure before a building permit is issued. General contractors shall ensure that all sub-contractors to be hired for a project have obtained all necessary licenses and shall provide a list of all sub-contractors at the time of application for a permit.

SECTION FIFTEEN: BUILDING AND PREMISES

No license shall be issued for the conduct of any business if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of the Village and the State of Illinois.

SECTION SIXTEEN: LOCATION

- A. No license for the operation of a business in the Village shall be construed to permit the operation of a licensed business in more than one location in the Village; a separate license shall be required for each location of a licensed establishment. For the purposes of this Ordinance, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel, shall be operated, and managed by the same person

or owner and shall be an establishment with the same classification.

- B. The location of any licensed business may be changed provided that ten (10) days' notice thereof is given to the Village President or a designee in the absence of any provision to the contrary; provided, however, that all applicable ordinances and regulations of the Village shall be complied with.

SECTION SEVENTEEN: NUISANCES PROHIBITED

- A. No business or establishment, whether or not licensed, shall be so conducted, or operated as to constitute a nuisance in fact; and no building, vehicle, structure, yard, lot, premises, or part thereof, shall be used, kept, maintained or operated in connection with any business or establishment so as to occasion any nuisance, or so as to be dangerous to life or detrimental to health. Any charge of conducting or operating a nuisance may be made under this Ordinance or under the provisions of any other Village ordinance prohibiting nuisances generally.
- B. No building or structure, utilized, constructed, or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe, or dangerous condition.
- C. No substance, matter, or thing of any kind whatever which shall be dangerous or detrimental to health shall be allowed to exist in connection with any business or occupation or be used in any work or labor performed in the Village.
- D. It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business to cause to be removed at their own cost and expense at least once each week all refuse produced therein; provided, however, that such removal shall occur more frequently as necessary to prevent nuisances from odor, vermin and/or litter.

SECTION EIGHTEEN: WORKING CONDITIONS

- A. Health Requirements:
 - 1. No owner, lessee, manager or superintendent of any store, workshop or other place where persons are employed shall cause or permit such place, or any room or part thereof, to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.
 - 2. All such places of employment shall be kept in a clean condition, free from the effluvia of a sewer, drain, privy, stable or other nuisance; also, as far as practicable, such premises shall be free from all gases, vapors, dust or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for employees shall be provided and such facilities shall be

properly ventilated.

B. Heating Requirements:

1. It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop, to maintain a temperature within such factory or workshop of not less than sixty-eight degrees (68°) Fahrenheit without such undue restriction of ventilation as to interfere with proper sanitary conditions therein at such times as employees are required to be on the premises from October 1 of each year to June 1 of the succeeding year, Sundays and holidays excepted; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than sixty-eight degrees (68°) Fahrenheit is necessary or expedient for the work or manufacturing process of such business.
2. It shall be the duty of any person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than sixty-eight degrees (68°) Fahrenheit without such undue restriction of ventilation as to interfere with proper sanitary conditions therein, at such times as employees are required to be on the premises from October 1 of each year to June 1 of the succeeding year, Sundays and legal holidays excepted.

- C. Inspections: The Zoning Officer or other authorized Village official shall visit or cause to be visited all such places of employment in the Village as often as they shall deem necessary to assure compliance with the provision of this Ordinance, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

SECTION NINETEEN: BUSINESS OPEN TO PUBLIC

All businesses licensed under this Ordinance that invite the public generally into their establishments for the purpose of conducting business, shall be subject to the following regulations in addition to all other ordinances and regulations of the Village:

- A. All areas within the licensed premises where the public may enter shall be kept in a safe and sanitary condition.
- B. All businesses subject to this Section shall refrain from all deceptive trade practices as defined by state or federal law or regulation and shall comply with all applicable laws and regulations regarding consumer protection and deceptive trade practices. In the event of any such violation, the business license of the

establishment may be revoked pursuant to the provisions of this Ordinance.

- C. All businesses wherein there are bowling alleys, billiard or pool tables or ten (10) or more coin-operated amusement machines or juke boxes shall have a supervisor present at all times when open to the public.

SECTION TWENTY: APPEAL

Any person aggrieved by the decision of the Village President or a designee in regard to the denial of an application for a business license, as provided in this Ordinance, or the Village President in connection with the suspension or revocation of a license, or the closing of an establishment dangerous to the public, as provided in this Ordinance, shall have the right to appeal to the Board of Trustees. Such appeal shall be taken by filing with the Village President or a designee, within ten (10) days after the notice of a denial of an application or a revocation of a license, a written statement under oath setting forth specifically the grounds for appeal. The Board of Trustees shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee in the same manner as provided in Section Twenty-Six hereof. The decision of the Board of Trustees on such appeal shall be by a vote of a majority of the trustees then holding office and shall be final.

SECTION TWENTY-ONE: LICENSE TO BE POSTED; DESTRUCTION, REMOVAL OF LICENSE

It shall always be the duty of any person conducting a licensed business in the Village to keep the license displayed in a prominent place on the premises, machine, or vehicle used for such business.

No person shall destroy, obliterate, take, remove, or carry away without the consent of the owner any license, certificate, plate, or sticker that has been issued by the Village except when such license, certificate plate or sticker has been discontinued or the licensed premises have been abandoned. Nothing herein shall prevent the Village President or his or her duly authorized representative from removing any license, certificate, plate, or sticker from the possession of a former licensee, his premises, any vehicle, or any machine when said license has been revoked under the provisions of this Ordinance.

SECTION TWENTY-TWO: BUSINESS VEHICLES

Whenever the number of vehicles used is the basis, in whole or in part, for a license fee, the Village Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license, and such tag or sticker shall be posted or affixed in a conspicuous place on each such vehicle.

SECTION TWENTY-THREE: COMPLIANCE WITH ORDINANCES AND STATUTES

The building and premises used in any business licensed hereunder shall comply with all Village zoning, building, fire and health codes and ordinances, as well as all other applicable Village codes, ordinances, rules, and regulations and shall be maintained in good repair, free of litter and debris and kept in a safe condition for employees, customers and other persons present therein or thereon.

SECTION TWENTY-FOUR: ENFORCEMENT

The Village President or a designee shall take all necessary and appropriate action to compel compliance with the regulatory provisions of this Ordinance. All municipal employees duly authorized and acting as license inspectors shall be conservators of the peace with police powers for the purpose of enforcing the provisions of this Ordinance and other Village ordinances relating to the licensing of businesses and occupations and their regulations.

SECTION TWENTY-FIVE: SUSPENSION AND REVOCATION OF LICENSE

- A. **Suspension of Business Operation:** When the conduct or operation of any business shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare, the Village President shall be authorized to summarily order the immediate cessation of business, the closing of the premises and the suspension of any license for a period not to exceed ten (10) days. Within eight (8) days after he has so acted, the Village President shall call a hearing for the purpose of determining whether or not the license should be suspended for an additional period of time or revoked.
- B. **Revocation of License:** Licenses issued under the ordinances of the Village, unless otherwise provided, may be suspended for up to thirty (30) days or revoked by the Village President after notice and hearing as provided in Subsection C hereof for any of the following causes:
 - 1. Any fraud, misrepresentation or false statement contained in the application for

the license.

2. Any violation by the licensee of ordinance provisions relating to the license, the subject matter of the license, or the premises occupied.
 3. Conviction of the licensee of any felony or of a misdemeanor when such conviction indicates his inability to operate a safe, honest, or legitimate business operation within the Village.
 4. Failure of the licensee to pay any fine or penalty owing to the Village.
 5. Refusal to permit an inspection or sampling, or any interference with a duly authorized Village officer or employee while in the performance of his duties in making such inspections, as provided in this Ordinance; or
 6. Any other violation of any Village ordinances, resolutions, or regulations. Such suspension or revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable ordinances of the Village.
- C. Hearing: Notice of the hearing for suspension or revocation of a license shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail (return receipt requested) to the licensee at his last known address at least five (5) days prior to the date set for the hearing.

At the hearing, the Village Attorney shall present the complaint and shall represent the Village. The licensee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. A stenographic or electronically recorded record of the hearing shall be kept. The Village President shall preside and shall render the decision within a reasonable time after the conclusions of the hearing, but not later than thirty (30) days after such conclusion. The decision shall be in writing and shall summarize the evidence and state the reasons for the decision.

Any licensee whose license is suspended or revoked shall pay to the Village the costs of the hearing before the Village President. The Village President shall determine the costs incurred by the Village for said hearing, including, but not limited to, court reporter fees, the costs 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 Village President may allow.

The licensee shall pay said costs to the Village within thirty (30) days of notification of the costs by the Village President. Failure to pay said costs within thirty (30) days

of notification is a violation of this section and may be cause for license suspension or revocation, or the levy of a fine.

SECTION TWENTY-SIX: ENFORCEMENT AND PENALTY

In addition to the suspension and revocation provisions above, any person, firm or corporation convicted of violating any provisions of this Ordinance or failing or refusing to comply with the provisions of any notice herein provided for within the time period as specified in said notice, or who shall resist or obstruct any duly authorized representative of the Village in carrying out any provision of this Ordinance, shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50) nor more than Seven Hundred Fifty Dollars (\$750) for each offense. Each day any violation continues shall constitute a separate offense. The fine authorized by this section shall be in addition to any cost or expense or reimbursed to the Village pursuant to any other provision of this Ordinance.

Notwithstanding the foregoing, whenever any Village officer or official authorized to charge a person or arrest a person without a warrant for a violation of this Ordinance, the Village officer or official may, in lieu of filing a complaint in court, issue the alleged violator a citation, which citation shall contain statements which in substance: advise the person that s/he has violated a specific Ordinance; request him/her to make payment as set forth herein as settlement of the violation claim; and inform him that upon failure to so settle, a complaint will be filed in the Circuit Court of Lake County, 19th Judicial Circuit Court, charging him/her with the violation. For purposes of this Section, Village officers authorized to issue citations shall include, but not be limited to, the Village President (or designee).

Pursuant to said citation, a person accused of the violation may settle the violation claim by paying to the Village the amount of Fifty Dollars (\$50) within a period to be specified in the citation, which period shall not be more than ten (10) days from the time the alleged violation was committed. The settlement payment shall be made in accordance with the instruction contained in the citation at the Office of the Village Clerk.

In the event that the person to whom the citation is issued fails to settle and pay the violation claim within ten (10) days of issuance of the citation, a second notice shall be issued. If the payment of the prescribed amount plus One Hundred Dollars (\$100) is not made within 15 days of issuance of the second notice, a final notice shall be issued. If a final notice is issued, the settlement payment shall be Five Hundred Dollars (\$500), which settlement payment shall be due within 30 days of issuance of the final notice. If payment of the final settlement amount is not made within said 30 day period, then the Village President (or designee) is authorized to cause a notice to appear to be served upon the alleged violator and the Village President (or designee) is authorized to file a complaint and to prosecute the complaint in the 19th Judicial Circuit Court of Lake County.

In addition to the suspension and revocation provisions above, any person, firm or corporation convicted of violating any provisions of this Ordinance shall be subject to a fine of

not less than Fifty Dollars (\$50) and not more than Seven Hundred Fifty Dollars (\$750). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Whenever a person, firm or corporation violates any of the provisions of this Ordinance, the Village may cause appropriate legal actions and proceedings, in law or in equity, to be instituted and maintained to enforce compliance herewith.

SECTION TWENTY- SEVEN: TOBACCO/ VAPING DEALERS

- A. The President and Board of Trustees expressly find and declare that:
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 addition to cocaine and is the most widespread example of drug dependence in this country.
 4. The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug use.
 5. The present legislative scheme of prohibiting sales of tobacco products to persons under the age of twenty-one (21) has proven ineffective in preventing such persons from using tobacco products.
 6. The enactment of this Ordinance directly pertains to and is in furtherance of the health, welfare, and safety of the residents of the Village, particularly those residents under twenty-one (21) years of age.
- B. For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them:
- TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco or Vapor.
- C. 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 within the Village without having first obtained a tobacco dealer' s license therefor pursuant to this Section. Such license shall be in addition to any other license required by this Ordinance.
- D. Application for a license hereunder shall be made, in writing, to the Village President

or a designee and shall be processed in accordance with the provisions of Section 4 of this Ordinance.

E. It shall be unlawful for any person to sell, offer for sale, give away or deliver Tobacco products within one hundred feet (100') of any school, childcare facility or other building used for education or recreational programs for persons under the age of twenty-one (21) years.

F. The following shall be unlawful:

1. Sales To: For any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products to any person under the age of twenty-one (21) years.

Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco product and on or upon every vending machine which offers tobacco products for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO 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; said letters to be at least one inch (1") high.

2. Sale By: 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 products in any licensed premises.

3. Purchase: For any person under the age of twenty-one (21) years to purchase tobacco products or to misrepresent his identity or age or to use any false or altered identification for the purpose of purchasing tobacco products.

4. Penalties Generally: Any person violating any provision of this Section shall be fined not less than Two Hundred Dollars (\$200) nor more than Seven Hundred Fifty Dollars (\$750) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a licensee convicted of violating any provision of this Section may be subject to having his license revoked, suspended, or not renewed by the Village.

G. It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting, or advertising tobacco 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 free of charge 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.

- H. 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 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.

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 the business located at such premises shall be exempt from the requirements of this Section.

- I. The Village President shall be charged with the administration of this Section. The Village President may suspend or revoke any license issued under the provisions of this Section if he or she determines that the licensee has violated any of the provisions hereof. In lieu of suspension or revocation of a license, the Village President may, instead, levy a fine on the licensee. The fine imposed shall not exceed the maximum amount of Seven Hundred Fifty Dollars (\$750) for each violation. Each day on which a violation continues shall constitute a separate violation.

J. Hearing; Decisions; Fees:

1. Notice of Hearing: No such license shall be suspended or revoked, and no licensee shall be fined except after a public hearing by the Village 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 by personal service.
2. President's Decision: The Village President shall, within seven (7) days after such hearing, if he or she determines after such hearing 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 and either the amount of the fine, the period of suspension or that the license has been revoked and serve a copy of such order within the seven (7) days upon the licensee.
3. Fees: Any licensee determined by the Village President to have violated any of the provisions of this Section shall pay to the Village the costs of the hearing before the Village President on such violation. The Village President shall determine the costs incurred by the Village for said hearing, including, but not limited to, court reporter's fees, the costs of transcripts or records, attorney 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 by the Village President. Failure to pay said costs within thirty (30) days of notification is a violation of this Section and may be cause for license suspension or revocation or the levy of a fine.

- K. Use of Premises After License Revocation: When any license shall have been revoked for any cause, no license shall be granted to said licensee for the period of six (6) months thereafter for the conduct of the business of selling tobacco products, as defined in this Section, in the premises described in such revoked license.
- L. Responsibility of Licensee for Agents and Employees:
Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Section by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such license 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 TWENTY-EIGHT: REPEALER

That Ordinance No. 09-05-01 is hereby repealed in its entirety. In addition, all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

SECTION-TWENTY-NINE: EFFECTIVE DATE

That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication in pamphlet form as provided by law.

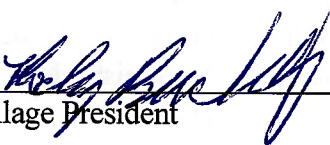
AYES: Hameister, Honegger, Mateja, Penny, Ruwitch

NAYS: None

ABSENT/NOT VOTING: Van Zeyl

PASSED: June 21, 2021

APPROVED: June 21, 2021


Village President

ATTEST:


Village Clerk

PUBLISHED: June 21, 2021

