

ORDINANCE NUMBER 2018-145

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF VERNON HILLS, CHAPTER 10 – TOBACCO SALES AND CHAPTER 26 – SMOKE FREE AIR REGULATIONS.

WHEREAS, chapter 10 of the Vernon Hills Code of Ordinances establishes regulations for the retail sale of tobacco products, including minimum age requirements to sell and purchase said products; and

WHEREAS, chapter 26 of the Vernon Hills Code of Ordinances, otherwise known as the Vernon Hills Smoke Free Ordinance establishes regulations that prohibit smoking in public places as defined therein, including but not limited to outdoor areas within 15’ of an entrance; and

WHEREAS, the Village President and Board of Trustees of the Village of Vernon Hills, at their meeting on November 7, 2018 determined that the minimum age to sell tobacco shall be increased from 18 to 21 years of age and that the sale and purchase of vape products shall be regulated in accordance with chapter 10 of the Vernon Hills Code of Ordinances; and

WHEREAS, the Village President and Board of Trustees of the Village of Vernon Hills, at their meeting on November 7, 2018, determined that outdoor smoking shall be prohibited in outdoor dining areas regardless of proximity to entrance doors, and shall also be prohibited outdoors, within 25’ of an entrance door and outdoor dining area. The Village Board further determined that the use of vape products shall be regulated in accordance with chapter 26 of the Vernon Hills Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS AS FOLLOWS:

SECTION I. That Chapter 10, “Tobacco Sales and Sales of Smokeless Tobacco, E-Cigarettes, or Alternative Nicotine Products” of the Village of Vernon Hills Code of Ordinances, is hereby amended to read as follows.

ARTICLE III. - TOBACCO SALES AND SALES OF SMOKELESS TOBACCO, E-CIGARETTES, OR ALTERNATIVE NICOTINE PRODUCTS^[2]

DIVISION 1. - GENERALLY

Sec. 10-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vending machine means a vending machine operated by the customer through the use of coin, slug, token or other like objects by which the customer by inserting the coin or token purchases a tobacco product, e-cigarette or alternative nicotine product from other than another person.

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

Alternative nicotine product means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine or other tobacco or nicotine substitute, whether by chewing, smoking, absorbing, dissolving, vaping, inhaling, snorting, sniffing or by any other means.

E-cigarettes means a device that uses a liquid or digital system that may or may not include nicotine, including, but not limited to, vaporizers, vape pens, hookah pens, electronic cigarettes and electronic pipes. This definition also includes products necessary of the use of the product such as the liquid or cartridge meant to be used with such a device.

Possess means to have, hold or to have custody of control over tobacco products, e-cigarettes, alternative tobacco products, or any vape products, devices or liquids.

Use means to smoke, inhale, exhale, consume, burn, ignite, ingest, or vape any tobacco products, e-cigarettes, alternative tobacco products, vape products or vaping liquids.

Vape Product means any substance, in any form, consisting of a product, substance or delivery system of any type, intended as, or for the use or consumption of, any tobacco or nicotine alternative substance in any form.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-67. - Purpose.

It is the policy of the village to prohibit the sale of tobacco products, e-cigarettes or alternative nicotine products or Vape Products and to prohibit anyone under the age of 21 from buying tobacco products, e-cigarettes or alternative nicotine products in any of its forms, to prohibit selling, giving or furnishing tobacco products, e-cigarettes or alternative nicotine products in any of its forms, to anyone under the age of 21 and providing penalties therefor. It is also the policy of the village to prevent the use of cigarette vending machines by any person under the age of 21. Furthermore, it is also the policy of the Village to prohibit the possession of tobacco, e-cigarettes, vape products and alternative nicotine products to anyone under the age of 18.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-68. - Inspection, enforcement.

It shall be the duty of the Chief of Police or his designee, and they are hereby authorized and empowered, from time to time, to inspect and examine all places where tobacco products, e-cigarettes, vape products or alternative nicotine products are licensed to be sold within the village, with the view of ascertaining whether the laws of the state, the provisions of this article and other ordinances of the village in relation to the sale of tobacco products, e-cigarettes, vape products or alternative nicotine products are being complied with at such places. It shall be their duty to cause all such laws and ordinances to be enforced. It shall be the duty of all persons licensed to sell tobacco products, e-cigarettes, vape products or alternative nicotine products within the village, upon demand of the chief of police and/or his designee(s), to furnish to such person for his inspection, samples of all tobacco products, e-cigarettes, vape products or electronic nicotine products sold or offered for sale by them, which samples of tobacco products, e-cigarettes, vape products or alternative nicotine products shall be analyzed by or under the direction of the chief of police and/or his designee(s) and a record of such analysis shall be made and kept in their office for the inspection of the public.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-69. - Prohibited sales or delivery.

It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, e-cigarettes, vape products or alternative nicotine products to any person under the age of 21 years of age, including upon the written order of a parent or adult acting in loco parentis not present at the time of purchase.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-70. - Posting of signs.

Signs informing the public of the age restrictions provided for in this article shall be posted by every licensee at or near every display of tobacco products, e-cigarettes, vape products or alternative nicotine products and on or upon every vending machine which offers tobacco products, e-cigarettes, vape products or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

"THE SALE OF TOBACCO PRODUCTS, E-CIGARETTES, VAPE PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW"

Posted signs shall be plainly visible and shall measure at least eight and one-half inches in height by 11 inches in length. Letters on posted signs shall be at least one inch in height.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-71. - Minimum age to sell tobacco products, e-cigarettes, vape products or alternative nicotine products.

It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under 21 years of age to sell tobacco products, e-cigarettes, vape products or alternative nicotine products in any licensed premises.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-72. - Purchase by persons under 21.

It shall be unlawful for any person under the age of 21 years of age to purchase tobacco products, e-cigarettes, vape products or alternative nicotine products or to misrepresent his identity or age, or to use false or altered identification for the purpose of purchasing tobacco products, e-cigarettes, vape products or alternative nicotine products.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-73. - Possession by persons under 18.

It shall be unlawful for any person under the age of 18 years of age to possess any tobacco products, e-cigarettes, vape products or alternative nicotine products.

Sec. 10-73A – Use of Tobacco or Alternative Nicotine Products by Persons under 21

It shall be unlawful for any persons under the age of 21 to use or consume any tobacco products, e-cigarettes, vape products or alternative nicotine products.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-74. - Certain free distributions prohibited.

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, e-cigarettes, vape products 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, e-cigarettes, vape products or alternative nicotine products free of charge to any person on any right-of-way, playground, park or other property owned by the village, any school district, any park district, or any public library district.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-75. - Machines to be inaccessible to persons under 21.

(a) Each tobacco product, e-cigarette or alternative nicotine product, vending machine shall be so installed as to be inaccessible to persons under 21 years of age. Every vending machine

not installed as to be inaccessible to persons under 21 years of age is hereby declared to be a public nuisance.

- (b) Inaccessibility may be accomplished either by placement of the machine in a room or area to which persons under 21 years of age do not have access or by the installation of a manual, electric, electronic or remote control locking device which can be activated and controlled only by an adult employee of the premises on which such machine is located, and then only after such adult employee has verified that the person desiring to purchase tobacco product, e-cigarette or alternative nicotine product is not a person under 21 years of age.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-76. - 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 punished in the same manner as if such act or omission had been done or omitted by the licensee personally.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Secs. 10-77—10-95. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-96. - Required.

It shall be unlawful to sell or offer for sale at retail, at wholesale, to give away, deliver, or to keep with the intention of selling at retail, wholesale, giving away or delivering tobacco products, e-cigarettes, vape products or alternative nicotine products within the village without first obtaining a license. This license shall be required regardless of the method of sale or dispensing and shall include sales and dispensing by self-help, manual service or coin-operated device.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-97. - Application.

Any person desiring to obtain a license to sell tobacco products e-cigarettes, vape products or alternative nicotine products shall make written application for that purpose to the village clerk in which shall be set forth the full name and address of the applicant, the name and address of the business, firm or corporation at which such sales are proposed to be made.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-98. - Fee.

The license fee for a tobacco, e-cigarette or alternative nicotine product dealer's license within the village shall be as provided in section 10-7.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-99. - Scope.

The license required by this division shall authorize the licensee named therein to sell tobacco products, e-cigarettes, vape products or alternative products at the place designated therein only.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-100. - Posting.

Licenses required by this division shall be posted in a conspicuous place in the premises designated therein.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-101. - Transfer.

The transfer of any license issued under this division is hereby expressly prohibited.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-102. - Suspension or revocation.

Every license issued under this division is subject to the right, which is hereby expressly reserved, to suspend or revoke the same should the licensee, directly or indirectly, permit the sale of tobacco products, e-cigarettes, vape products or alternative nicotine products to any person under the age of 21, or permit the operation of any vending machine contrary to the provisions of this article, the ordinances of the village or the laws of the state. Such license may be suspended or revoked or a fine imposed by the board of trustees after written notice to the licensee, which notice should specify the ordinance or law violation with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violation. Ten days' notice of the hearing shall be given the licensee. At such hearing, the licensee and his attorney may present and submit evidence or witnesses to his defense. However, no such license shall be suspended or revoked and no licensee shall be fined except after a hearing by the village board with a ten-working-day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The ten-working-day notice provisions shall begin the day following the delivery by certified mail or by personal service.

(Ord. No. 2017-084, § I(Exh. A),7-5-17)

Sec. 10-103. - Use of premises after revocation.

When any license has been revoked for any cause, no license shall be granted to any licensee for the period of six months thereafter for the conduct of the business of selling tobacco products, e-cigarettes, vape products or alternative nicotine products in the premises described in the revoked license.

(Ord. No. 2017-084, § I(Exh. A),7-5-17) Secs. 10-104—10-120.

SECTION II. That Chapter 26, “Smoke Free Air Regulations” of the Village of Vernon Hills Code of Ordinances is hereby amended to read as follows.

Chapter 26 - SMOKE-FREE AIR REGULATIONS

Sec. 26-1. - Definitions.

The following words and phrases, whenever used in this chapter shall have the following meanings:

Alternative nicotine product means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine or other tobacco or nicotine substitute, whether by chewing, smoking, absorbing, dissolving, vaping, inhaling, snorting, sniffing or by any other means.

Bar/tavern means an establishment which is devoted to serving of alcoholic beverages for consumption by members of the public, or members or guests of a private club on the premises and in which the serving of food is only incidental to the consumption of such beverages, including, without limitation, taverns, night clubs, cocktail lounges, and cabarets.

Business means any sole proprietorship, partnership, joint venture, corporation, limited liability company, or other business entity formed for profit-making purposes.

E-cigarettes means a device that uses a liquid or digital system that may or may not include nicotine, including, but not limited to, vaporizers, vape pens, hookah pens, electronic cigarettes and electronic pipes. This definition also includes products necessary of the use of the product such as the liquid or cartridge meant to be used with such a device.

Employee means any person who is employed or retained by a business in consideration for a direct or indirect monetary wages or profit, and shall include the owner or operator of a sole proprietorship or other similar business entity, and a person who volunteers his or her services for a nonprofit entity,

Employer means any person, business, partnership, association, corporation, including, without limitation, a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area means all space in any structure or building that is enclosed or semienclosed on all sides by any combination of walls, windows, or doorways extending from floor to ceiling, including without limitation lobbies and corridors.

Entertainment facility means any facility devoted to a musical, dance, theatrical, dramatic, sporting, recreational, or performance event that is organized, licensed, or permitted by the owner of such a facility and to which the public is invited.

Health care facility means any office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, without limitation, hospitals, rehabilitation hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within those professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Open air dining area means a seating area open to the air that is accessory to a bar/tavern, restaurant, hotel, cafeteria, private club, or other public place engaged in purveying food or beverage service where members of the public, or members or guests of a private club are invited to receive food and beverage service.

Park means a public park or recreation area that is open to and used by the general public.

Place of employment means any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including, without limitation, common work areas, private offices, employee lounges, restrooms, conference and meeting rooms, classrooms, cafeterias, elevators, stairwells, hallways, medical facilities, private clubs, and interiors of vehicles used for employment purposes, except as otherwise provided herein. A private residence is not a "place of employment" unless it is used as a day care facility for children or adults. The term "place of employment" shall also include all areas within any building or structure, including parking structures or garages and all areas within 25 feet of an entrance.

Private club means a private non-for-profit, association, corporation, or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests and is not intended to be open to the public.

Public entrance means the doorway or other entrance to a public place that is (i) open to and intended for use by the general public or business invitees for ingress and egress to the public place, and (ii) open to and intended for use by employees to enter or exit the place of employment.

Public place means any area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (1) Vehicles of public conveyance;

- (2) Common or public areas (including, without limitation, lobbies, hallways, reception areas, public restrooms, elevators, and stairwells) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple-family residential structures;
- (3) Common or public areas (including, without limitation, lobbies, hallways, reception areas, public restrooms, elevators, and stairwells) of any commercial building or structure that is accessible to the public including, without limitation, business, office, industrial, or manufacturing buildings, except as otherwise provided herein; banks and financial institutions; educational facilities; health care facilities such as hospitals, clinics and doctor's offices; restaurants; banquet halls; polling places; shopping malls; food stores; cafeterias; auditoriums; sports arenas; entertainment facilities with fixed seating; museums; theatres, including Arbor Theatre; vehicles for public conveyance and stations serving the same such as trains and train stations (but not including exterior platform areas), and buses and bus shelters; hotels and motels; and retail and service establishments;
- (4) Restaurants, bars, lounges, nightclubs and any other venue that serves food or beverages, including any outdoor seating and open air dining areas
- (5) All Village property, such as libraries, village hall, village owned or operated buildings, and Village owned or leased vehicles.
- (6) The seating areas of all outdoor arenas, stadiums, amphitheaters or similar entertainment facilities with fixed seating;
- (7) School buildings and grounds;
- (8) Public sidewalks within 50 feet of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

Restaurant means an establishment which is devoted to serving of food for consumption by members of the public, or members or guests of a private club on the premises and in which the serving of alcoholic beverages is only incidental to the consumption of such food. This definition includes all areas inside the restaurant building or structure and any area outside of the building within 25 feet of any location at which food may be served. Under this Ordinance, any outdoor area with tables or chairs is deemed to be part of the restaurant as defined herein.

Retail tobacco store which shall be defined as a retail store or establishment where the predominance (defined as being at least 75 percent) of the items available for sale or consumption at the establishment (not taking into account catalogue items which may be ordered from the establishment). This exemption excludes any establishment which is concurrently licensed for the sale or consumption of food or alcohol. If a licensee seeks a license for both a retail tobacco store and for an establishment selling food and alcohol for sale and consumption on the premises, each establishment must be physically separated and share no joint entrances or physical connections between them. If a retail tobacco store is located within a multitenant building, its HVAC system must be totally separated from the building's HVAC system, if smoking will be allowed within the establishment. Nothing in this section shall prohibit an establishment licensed for the sale of alcohol or food from also selling tobacco items, but such establishment shall not be exempt from the provisions of this chapter.

Shopping mall means any enclosed walkway or hall area that serves to connect retail or professional establishments.

Smoking means using, consuming, inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco in any manner or in any form. For purposes of this Ordinance, the term "Smoking" also includes the use of any e-cigarette, vaping product or chewing tobacco.

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

Vape Product means any substance, in any form, consisting of a product, substance or delivery system of any type, intended as, or for the use or consumption of, any tobacco or nicotine alternative substance in any form.

Village property means all enclosed and unenclosed buildings, property, parks and vehicles owned by the village, including, without limitation, buildings, property and vehicles owned, leased, rented, operated by, or under the control of the village, excepting entertainment facilities with fixed seating which are owned, leased, rented, operated by, or under the control of the village.

(Ord. No. 2006-42, § 2, 7-18-06; Ord. No. 2007-01, § 1, 1-16-07)

Sec. 26-2. - Statement of Policy. The Village of Vernon Hills finds that tobacco smoke and use of tobacco and tobacco related or substitute products is harmful and dangerous to human beings and a hazard to public health. Secondhand tobacco smoke causes at least 65,000 deaths each year from heart disease and lung cancer according to the National Cancer Institute. Secondhand tobacco smoke causes sudden infant death syndrome, low-birth-weight in infants, asthma and exacerbation of asthma, bronchitis and pneumonia in children and adults. Secondhand tobacco smoke is the third leading cause of preventable death in the United States. Illinois workers exposed to secondhand tobacco smoke are at increased risk of premature death. An estimated 1,570 Illinois citizens die each year from exposure to secondhand tobacco smoke.

Further, the Village finds that alternative tobacco or nicotine products, including e-cigarettes and vaping pose similar health risks. Recent studies show that vaping is capable of providing an increased level of nicotine consumption which can be even more addicting than cigarettes. Such uses create an increased risk of cancer as well as various heart, lung and other diseases. Moreover, it appears that retailers and marketers may focus their efforts on minors and other younger individuals who may not yet be of age to purchase traditional tobacco products.

Therefore, the Village of Vernon Hills, in an effort to protect the health safety and welfare of its citizens, in an particular of younger persons who may be attracted by misleading information about the safety of alternative tobacco products, promulgate the following regulations and modifications to its existing tobacco and tobacco-related regulations.

Sec. 26-3. - Prohibition in public places.

Excepts as provided in Section 26-7, It is unlawful to smoke or use any Tobacco Product, or Alternative Nicotine Product in any public place and i[t shall be unlawful for the owner,

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occupant, lessor, lessee, employer, manager, operator, or other person in control of a public place to knowingly permit smoking or the use of any Tobacco Product, or Alternative Nicotine Product in any public place, except as otherwise provided for in section 26-7.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-4. Restaurants.

It is unlawful to smoke or use a Tobacco Product or an Alternative Nicotine Product inside of a restaurant and/or within 25 feet of any outdoor seating area at which food may be served.

Sec. 26-5. - Prohibition in places of employment.

It is unlawful to smoke or use any tobacco product, or Alternative Nicotine Product in any place of employment, except as otherwise provided herein. It shall be unlawful for any employer to knowingly permit smoking or use of a tobacco product or Alternative Nicotine Product in any place of employment.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-6. - Prohibition at public entrances.

It is unlawful to smoke or to use any Tobacco Product or Alternative Nicotine Product in any outdoor area that is located within 25 feet of an entrance to a "public place" or place of employment

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-7. - Places where smoking is not regulated.

Notwithstanding any other provision in this chapter to the contrary, the following areas shall be exempt from the provisions of this chapter:

- (1) A private dwelling unit unless it is used as a day care facility for children or adults;
- (2) Hotel and motel sleeping rooms designated as smoking rooms, provided that no more than 25 percent of the rooms rented to guests in a single building shall be designated as smoking rooms;
- (3) Rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room in which smoking is permitted;
- (4) Retail tobacco store, , provided that smoking is restricted to a designated lounge area within and provided that it has an in house HVAC system is totally isolated from all other HVAC systems if located in a multi-tenant structure;
- (5) Golf courses (on the actual course itself but not inside of any building or structure) , except as otherwise provided herein;

- (6) Entertainment facilities provided that a live musical, dance, theatrical or dramatic performance is underway and such smoking is limited to the performers, and to that which is necessary for the portrayal of characters in the context of the plot or storyline of the musical, dance, theatrical, or dramatic performance.
- (7) Repealed.
- (8) Within an outdoor covered shelter (“Designated Outdoor Smoking Area”) provided the shelter complies with one of the following design options:
 - (A) *Design option I.*
 - (i) The shelter has openings that lead directly to the outdoors with said openings having the equivalent area corresponding to a minimum of 30 percent of the total wall area of the enclosed space (all four sides);
 - (ii) The openings lead directly to the outdoors except that optional, fixed or retractable plastic, vinyl, or canvass covers may be used in inclement weather to temporarily protect users within. Prefabricated window units with moveable sashes are not permitted;
 - (iii) At least two of the shelter walls must include a percentage of the required openings;
 - (iv) If the shelter itself is enclosed within 25 feet from a public entrance, then the designated smoking area within the shelter is located a minimum of 25 feet from a public entrance;
 - (v) If the shelter is located on a site where food/beverage service is offered, no wait service is allowed within the shelter area; (vi) Except for the required exterior openings and optional fixed or retractable covers, the shelter must be constructed of durable, weather-resistant, and washable building materials including, but not limited to, rigid plastic, canvass, vinyl, aluminum, glass, or masonry;
 - (vi) The shelter complies with all applicable architectural appearance, zoning, and development ordinances and, structural building codes as determined by the building commissioner.
 - (B) *Design option II.*
 - (i) The shelter is not larger than 180 square feet in area;
 - (ii) The shelter has openings that lead directly to the outdoors with said openings having the equivalent area corresponding to a minimum of ten percent of the total wall area of the enclosed space (all four sides);
 - (iii) The openings lead directly to the outdoors except that optional, fixed or retractable plastic, vinyl, or canvass covers may be used in inclement weather to temporarily protect the users. Prefabricated window units with moveable sashes are not permitted;
 - (iv) At least two of the shelter walls must include a percentage of the required permanent, unobstructed openings;

- (v) The designated smoking area within the shelter is located a minimum of 25 feet from a public entrance;
- (vi) Except for a bench, no tables, chairs, or food/beverage service is allowed within the shelter;
- (vii) the shelter must be constructed of durable, weather-resistant, and washable building materials including, but not limited to, rigid plastic, canvass, vinyl, aluminum, glass, or masonry;
- (viii) The shelter complies with all applicable architectural appearance, zoning, and development ordinances and, structural building codes as determined by the building commissioner.

(Ord. No. 2006-42, § 2, 7-18-06; Ord. No. 2006-74, § I, 12-19-06)

Sec. 26-8. - Declaration of nonsmoking establishment.

Nothing in this chapter shall be deemed to limit the owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-9. - Nonretaliation or discrimination.

No person, business, or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer reports or attempts to report a violation of this chapter, or exercise any rights afforded by this chapter.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-10. - Signs.

- (a) Each owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of a "public place" shall post conspicuous "no smoking" signs in the enclosed area of any "public place" where smoking is prohibited. Such "no smoking" signs shall have a white field with the words "No Smoking" printed in red letters, four inches high with a one-half inch face, or shall bear the international "no smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this chapter
- (b) Each owner, occupant, lessor, lessee, employer, manager, operator, or other person in control of a park, recreation area, or school grounds shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area, or school grounds.

- (c) All premises affected by this chapter shall cause such signs to be posted in a conspicuous location. All premises affected by this chapter that are established subsequent to the effective date hereof [October 1, 2006] shall cause such signs to be so posted as a condition to obtaining applicable business licensing.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-11. - Enforcement.

- (a) Notice of the provisions of this chapter shall be given to all applicants for a business license in the village.
- (b) The building commissioner or his designees shall, during the course of otherwise mandated inspections, inspect for compliance with this chapter.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-12. - Penalties.

- (a) Any person who violates any provision of this chapter shall be fined not less than \$100.00 nor more than \$500.00 for each and every offense; and each day shall constitute a separate offense.
- (b) Any owner, occupant, lessor, lessee, employer, manager, operator, or other in control of an establishment, facility, or outdoor area who violators or allows patrons, guests, or other persons to violate any provision of this chapter shall be fined not less than \$100.00 for each and every offense; and each day a violation continues shall constitute a separate offense.

(Ord. No. 2006-42, § 2, 7-18-06)

Sec. 26-13. - Reserved.

Sec. 26-14. - Severability.

If any provision or part of this chapter or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this chapter and the application thereof shall be given effect and enforced without the invalid provision or application; and to this end, the provisions of this chapter are declared to be severable.

(Ord. No. 2006-42, § 2, 7-18-06)

SECTION III. Severability. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

SECTION IV. Repeal and Savings Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this ordinance.

SECTION V. Effective Date. This ordinance shall be in full force and effect from and after its passage.

SECTION VI. This ordinance shall be known as Ordinance 2018-145.

Adopted by roll call vote as follows:

Ayes: 4 – Koch, Schultz, Marquardt, Byrne

Nays: 2 – Brown, Oppenheim

Absent and not voting: 1 - Takaoka


Roger L. Byrne, Village President

Passed: 11/07/2018

Approved: 11/07/2018

Published in pamphlet form: 11/07/2018

Attest


Mark Fleischhauer, Village Clerk

