ORDINANCE NUMBER: 2019-17

AN ORDINANCE AMENDING CHAPTER 42 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE VIII. SALE OF TOBACCO AND RELATED PRODUCTS OF THE VILLAGE OF CHERRY VALLEY CODE OF ORDINANCES

WHEREAS, the Village of Cherry Valley, Illinois ("Village") has adopted a Village Code of Ordinances ("Code"); and

WHEREAS, Chapter 42, Article VIII of the Code governs Sale of Tobacco and Related Products to Minors; and

WHEREAS, the Village wishes to amend the Sections under Article VIII to change the appropriate age of consumer; and

WHEREAS, the Village has determined it is in the best interest of the Village and its citizens to enact such amendment.

NOW THEREFORE, be it ordained by the President and Board of Trustees of the Village of Cherry Valley, Illinois as follows:

1. The above recitals are incorporated herein and made a part hereof.

2. That Chapter 42, Article VIII, Section 42-321 of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

"Sec. 42-321. - Sale of tobacco to minors persons under 21 years of age.

(a) Sale prohibited. No minor person under 18 21 years of age shall buy any cigar, cigarette, smokeless tobacco alternative nicotine product, electronic cigarette, or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco alternative nicotine product, electronic cigarette, or tobacco in any of its forms, to any minor person under 18 21 years of age.

3. That Chapter 42, Article VIII, Section 42-321 subsection (b) of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

(b) Definition. For the purpose of this section, the term "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them:
Alternative Nicotine Products means any 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.

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.

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

Tobacco products 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.

(c)Vending machines. Tobacco products listed in this section may be sold through a vending machine only in the following locations:

(1) Factories, businesses, offices, private clubs and other places not open to the general public.

(2) Places to which minors persons under 21 years of age are not permitted access.

(3) Places where alcoholic beverages are sold and consumed on the premises.

(4) Places where the vending machine is under the direct supervision of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person. As used in this subsection, the term "direct supervision" means that the owner or employee has an unimpeded line of sight to the vending machine.
(5) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote-control device if the device is inaccessible to all customers. Blank.

(d) Penalty. Any person, firm, or corporation who violates any provision of this section is guilty of a petty offense and for the first offense in a 24-month period shall be fined $200.00 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws; $400.00 for the second offense in a 24-month period if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws; and $600.00 for the third or any subsequent offense in a 24-month period if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. The fourth or subsequent offense in a 24-month period, the person shall be fined $800 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the purposes of this subsection, the 24-month period shall begin with the person's first violation of the Act. The penalties in this subsection are in addition to any other penalties prescribed under the Cigarette Tax Act and the Tobacco Products Tax Act of 1995."

4. That Chapter 42, Article VIII, Section 42-322 of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

Sec. 42-322. —Smokeless-tobacco-limitation.

(a) Definition. For purposes of this section, the term "smokeless tobacco" means any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity.

(b) Sale to person under 18 prohibited. No person shall sell any smokeless tobacco product to any person under the age of 18. Any person who violates this section shall be guilty of a business offense punishable by a fine of not more than $50.00 for each violation.

(c) Distribution to minors prohibited. No person shall distribute or cause to be distributed to any person under the age of 18, without charge or at a nominal cost, any smokeless tobacco product. Any person who violates this section shall be guilty of a business offense punishable for a first offense by a fine of $200.00; for a second offense in a 12-month period by a fine of $400.00; and for the third or any subsequent offense in a 12-month period by a fine of $600.00. Reserved.

5. That Chapter 42, Article VIII, Section 42-323 subsection (a) of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

(a) Purpose.
(1) The sale and possession of marijuana, hashish, cocaine, opium and their derivatives is not only prohibited by state law, but the use of these substances has been deemed injurious to the health of the user.

(2) It has further been determined by the surgeon general of the United States that the use of tobacco is hazardous to human health.

(3) The ready availability of smoking herbs to 

persons under 21 years of age

could lead to the use of tobacco and illegal drugs.

(4) It is in the best interests of the citizens of the state to seek to prohibit the spread of illegal drugs, tobacco or smoking materials to 

persons under 21 years of age.

The prohibition of the sale of tobacco and snuff accessories and smoking herbs to 

persons under 21 years of age

would help to curb the usage of illegal drugs and tobacco products among our youth.

6. That Chapter 42, Article VIII, Section 42-323 subsection (c) of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

(c) Offenses.

(1) Sale to 

persons under 21 years of age.

No person shall knowingly sell, barter, exchange, deliver or give away tobacco accessories or smoking herbs to any person under 18 years of age.

(2) Sale of bidi cigarettes. No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.

(3) Sale of cigarette paper. No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold. For purposes of this section, the term "tobacco products" means cigarettes, cigars, smokeless tobacco or tobacco in any of its forms.

(4) Sale of cigarette paper from vending machines. No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this section, the term "cigarette paper" shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act or the Cigarette Use Tax Act.
(5) Use of identification cards. No person in the furtherance or facilitation of obtaining smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.

(6) Warning to minors persons under 21 years of age. Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign upon which there shall be imprinted the following statement: "SALE OF 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 sign shall be printed on a white card in red letters at least one-half inch in height.

7. All other provisions of Chapter 42 of the Code of Ordinances shall remain in effect as previously enacted except that those ordinances or parts thereof in conflict are hereby repealed.

8. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as provided by law.

PASSED UPON MOTION BY: NANCY BELT
SECONDED BY: SALLY HOLLEMBEAK
BY ROLL CALL VOTE THIS 15TH DAY OF OCTOBER, 2019
AS FOLLOWS:
VOTING "AYE": NANCY BELT, JEFF FUSTIN, SALLY HOLLEMBEAK, JEFF O’HARA, DAVID SCHROEDER
VOTING "NAY": NONE
ABSENT, ABSTAIN, OTHER NONE

APPROVED: OCTOBER 15, 2019

ATTEST:

KATHY TRIMBLE, VILLAGE CLERK

JIM E. CLAEYSSEN, VILLAGE PRESIDENT